



TOWN OF PORTOLA VALLEY

7:00 PM – Special Meeting of the Planning Commission
Wednesday, October 7, 2020

**THIS SPECIAL MEETING IS BEING HELD
VIA TELECONFERENCE ONLY**

SPECIAL MEETING AGENDA

COVID-19 DISEASE ADVISORY NOTICE

The San Mateo County Health Officer, in conjunction with colleagues from five other Bay Area Counties, has issued legal orders to help stop the spread of the coronavirus. These legal orders include directing all residents to shelter in place, with exceptions for visits to essential service providers such as grocery stores, gas stations, and pharmacies.

This meeting will be conducted in compliance with the Governor's Executive Order N-25-20 issued on March 12, 2020, and N-29-20 issued on March 18, 2020, allowing for deviation of teleconference rules required by the Brown Act. On Thursday, March 19, Governor Gavin Newsom issued a statewide stay-at-home order to protect the health and well-being of all Californians. In an effort to reduce the risk of spreading Coronavirus (COVID-19), members of the Town Council, the Town Manager, and the Town Attorney will all participate via teleconference. The purpose of this is to provide the safest environment for officials, staff, and the public while allowing for public participation.

Below are instructions on how to join and participate in a Zoom meeting.

Join Zoom Meeting Online:

Please select this link to join the meeting: <https://zoom.us/j/97920956352>

Or: Go to Zoom.com – Click Join a Meeting – Enter the Meeting ID

Meeting ID: 979 2095 6352

Or Telephone:

1.669.900.6833

1.888.788.0099 (toll-free) Enter same Meeting ID

Remote Public Comments: Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Please send an email to Laura Russell at lrussell@portolavalley.net by 12:00 PM on the day of the meeting. All received questions and comments will be read by staff and will be included in the public record.

We encourage anyone who has the ability to join the meeting online to do so. You will have access to any presentations that will be shown on your screen and can easily ask questions using the “raise your hand” feature when the Chair calls for them.

7:00 PM - CALL TO ORDER AND ROLL CALL

Commissioners Goulden, Kopf-Sill, Targ, Vice-Chair Taylor, Chair Hasko

ORAL COMMUNICATIONS

Persons wishing to address the Planning Commission on any subject not on the agenda may do so now. Please note, however, that the Planning Commission is not able to undertake extended discussion or action tonight on items not on the agenda.

NEW BUSINESS

1. [Public Comment Policy \(J.Dennis and L.Russell\)](#)
2. [Annual Report on Cannabis Land Use Ordinance \(L.Russell\)](#)

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

3. Commission Reports
4. Staff Reports

APPROVAL OF MINUTES

5. [Planning Commission Meeting of February 5, 2020](#)

ADJOURNMENT

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (650) 851-1700. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Any writing or documents provided to a majority of the Town Council or Commissions regarding any item on this agenda will be made available for public inspection at Town Hall located 765 Portola Road, Portola Valley, CA during normal business hours. Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley Library located adjacent to Town Hall.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing(s).



TOWN OF PORTOLA VALLEY

STAFF REPORT

TO: Planning Commission

FROM: Laura Russell, Director of Planning and Building

DATE: October 14, 2020

RE: Public Comment Policy

RECOMMENDATION

Staff recommends that the Planning Commission adopt a temporary and a permanent Public Comment Policy based on the policy previously adopted by the Town Council.

BACKGROUND

On April 8 and April 15, 2020, the Town Council considered and adopted a new Public Comment Policy and made associated changes to the Town Decorum Policy. Most cities/towns have a similar policy. The Public Comment Policy was designed to provide:

1. An opportunity for all public speakers to enjoy a positive experience when addressing a decision making body
2. Guidance to prospective public speakers on the process and use of materials
3. Guidance to the members of the decision making body

By adopting such a policy, the Council declared its hope that all public speakers:

1. Understand the basic contours of public meetings in Portola Valley
2. Are appreciated by both the body and attendees
3. That their comments are entered into the public record, and recorded

The Town Council adopted the Public Comment Policy for its own use and referred it to the Planning Commission and Architectural and Site Control Commission to make any changes to reflect the needs and responsibilities of the Commissions.

DISCUSSION

Staff has prepared two versions of the Public Comment Policy with proposed changes for the Commission's consideration: (Attachment 1) The proposed permanent policy that would go into effect once public meetings resume in the Historic Schoolhouse; and (Attachment 2) A version of the policy that includes current Zoom practices during the COVID-19 pandemic. Staff has made primarily administrative changes to the policy to make it apply to Planning Commission.

The Planning Commission should consider if any changes are needed to the policy to best serve the public meeting process. Staff recommends that the Commission review the time allotted to applicants and see if that is appropriate. The Council policy allows applicants to speak for 20 minutes. The types of projects that go to Council would most likely be larger projects or appeal of Planning Commission decisions. The Commission may wish to consider a shorter timeframe like 15 minutes for routine projects such as Conditional Use Permits, minor subdivisions, and Site Development Permits and a longer timeframe such as 25 minutes for large projects like major subdivisions, zoning amendments, or General Plan amendments.

The Decorum Policy is provided as Attachment 3 to inform the Commission's discussion. This policy was adopted in 2016 and updated in 2020 to align with the Public Speaker Policy. No action is needed on the Decorum Policy.

CONCLUSION

Staff recommends that the Planning Commission adopt a temporary and a permanent Public Comment Policy based on the policy previously adopted by the Town Council.

ATTACHMENTS

1. Permanent Public Speaker Policy
2. Temporary Public Speaker Policy (During COVID-19 pandemic)
3. Decorum Policy

TOWN of PORTOLA VALLEY

Town Hall: 765 Portola Road, Portola Valley, CA 94028 - Tel: (650) 851-1700 Fax: (650) 851-4677

Public Comments During Planning Commission~~Town Council~~ Meetings

Public comment at open meetings of the Planning Commission~~Town Council~~ meetings are a cherished element of local government, and a critical component to the decision-making process. Feedback, opinion, and information from the public is a vital part of the Town's inclusive process. This guide provides information to potential speakers on how to prepare and provide comments at public meetings.

1. Components of a Public Meeting Agenda

All Town agendas follow the same basic structure:

1. Call to Order/Roll Call – the official beginning of the meeting and the determination of the body's attendance
2. Oral Communications – the portion of the meeting dedicated to hearing from the public on matters that are not otherwise on the body's agenda. The body cannot take action on items not on the agenda, or brought up in oral communications
3. Consent Agenda – these items are voted on at once by the body, unless a member of the body or the public requests that an item be considered separately. (The Planning Commission may not have a Consent Agenda.)
4. Regular Agenda – these items are called in sequential order (unless changed by vote of the body), and members of the public may speak to any item during its public comment period, as called by the presiding officer (typically the Chair~~Mayor~~). Each agenda items will follow this procedure:
 - a. Staff Presentation, followed by Commission questions for staff
 - b. Applicant Presentation, followed by Commission questions for the applicant
 - c. Public Comments
 - d. Commission discussion and decision
- 4.5. Member reports – these are summaries provided by each member of the body on items of note
- 5.6. Adjournment

Members of the public may speak during items 2, 3, 4, or 5.

2. General Rules to Public Comment

Participation in the public decision-making process is a privilege all members of the public are afforded. Ensuring that such participation is a positive experience is the

responsibility of all those who attend a public meeting. All attendees, including members of the Commission~~Council~~, shall follow these general rules.

1. All speakers must be treated with respect. Public speaking on a potentially controversial item is not an easy task for many, and participation should be appreciated. Members of the public should not fear jeers or cheers that can discourage public participation. For this reason, all who attend a meeting should respect these rules, and the Chair~~Mayer~~ or Presiding Officer may ask a speaker to leave the meeting should unruly or disruptive behavior take place.
2. Any person while addressing a governing body who

- Makes slanderous, impertinent and profane remarks
- Interrupts another speaker
- whistles, yells, disturbs or displays disruptive behavior that impedes the orderly conduct of meeting

- shall, at the discretion of the Chair~~Mayer~~ or Presiding Officer, or a majority of the governing body, be barred from further audience during that meeting.
3. While it may seem appropriate, if not valued, to applaud a speaker when you agree with them, it can have the effect of silencing those who have a different opinion. In all cases, please refrain from applause after a speaker concludes if you concur with their comments.
 4. If you wish to speak to an item on the agenda, you are invited to submit a speaker card to Planning Staff~~the Town Clerk~~. Any person wishing to address the Commission~~Council~~ is requested to announce his/her name and address (name/address disclosure is not a requirement).
 5. Members of the public are invited and encouraged to speak at the podium microphone to ensure that all attendees can hear and so comments may be captured in the public record recording.
 6. Unless otherwise specified by the Chair~~Mayer~~ or Presiding Officer, all members of the public are allotted three minutes for each item. A timer is available so a speaker ~~may~~ monitor their remaining time. The Chair~~Mayer~~ or Presiding Officer may use the timer to more closely manage speaking times if there are many speakers present.
 7. Should a group of people wish to address the body on the same item, a spokesperson may address the body and can use each group member's three minutes, up to a total of a half hour. Members of the public allotting their time must be in attendance at the meeting.
 8. If you are an applicant for a project, you may address a body for a total of 20 minutes as part of a formal presentation; you may also speak for a total of five minutes in closing remarks, should you wish to do so.
 9. All remarks should be addressed to the body and not to any individual member of the body, staff, or any other member of the public.

10. The ~~Chair~~Mayer of Presiding Officer may direct a staff member to answer any questions from a speaker.
11. ~~Commissioners~~Council members shall not enter into debate or discussion with speakers during oral communications.
12. The ~~Chair~~Mayer or Presiding Officer may request, by unanimous consent of the ~~Commission~~Council, shortening speaking time to two minutes or ask speakers to limit themselves to new information and points of view not already covered by previous speakers should there be a large number of speakers. This may be necessary, not to limit public input, but to ensure that all speakers are able to participate in the full meeting, including the decision-making portion.
13. The ~~Chair~~Mayer or Presiding Officer may also allow for a speaker to extend beyond three minutes should it be necessary to complete a statement or for other extenuating circumstances.

3. Presentation Materials

Organized groups with a spokesperson (per #7 above) may use presentation materials to support their public comments. These can include power points or other computer-projected materials, or short videos. Such materials should be submitted in advance of the meeting by sending before 12 noon~~3 pm~~ of the day of the meeting to:

~~Town Council~~

~~Sharon Hanlon, Town Clerk~~
~~shanlon@portolavalley.net~~

~~Laura Russell, Planning & Building Director~~
~~lrussell@portolavalley.net~~



TOWN of PORTOLA VALLEY

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Public Comments During Planning Commission~~Town Council~~ Meetings

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1. Components of a Public Meeting Agenda

All Town agendas follow the same basic structure:

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4. Regular Agenda – these items are called in sequential order (unless changed by vote of the body), and members of the public may speak to any item during its public comment period, as called by the presiding officer (typically the Chair~~Mayer~~). Each agenda items will follow this procedure:
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5. Member reports – these are summaries provided by each member of the body on items of note
6. Adjournment

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Participation in the public decision-making process is a privilege all members of the public are afforded. Ensuring that such participation is a positive experience is the responsibility of all those who attend a public meeting. All attendees, including members of the ~~Commission~~Council, shall follow these general rules.

1. All speakers must be treated with respect. Public speaking on a potentially controversial item is not an easy task for many, and participation should be appreciated. Members of the public should not fear jeers or cheers that can discourage public participation. For this reason, all who attend a meeting should respect these rules, and the ~~Chair~~Mayor or Presiding Officer may ask a speaker to leave the meeting should unruly or disruptive behavior take place.
2. Any person while addressing a governing body who
 - Makes slanderous, impertinent and profane remarks
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shall, at the discretion of the ~~Chair~~Mayor or Presiding Officer, or a majority of the governing body, be barred from further audience during that meeting.
3. While it may seem appropriate, if not valued, to applaud a speaker when you agree with them, it can have the effect of silencing those who have a different opinion. In all cases, please refrain from applause after a speaker concludes if you concur with their comments.
4. If you wish to speak to an item on the agenda, you are invited to use the “raise your hand” feature in Zoom when the Chair calls for public comments. If you are calling in, press *9 to raise your hand. The Chair will call on people with the assistance of staff. ~~submit a speaker card to the Town Clerk.~~ Any person wishing to address the Council is requested to announce his/her name and address (name/address disclosure is not a requirement).
5. ~~Members of the public are invited and encouraged to speak at the podium microphone to ensure that all attendees can hear and so comments may be captured in the public record recording. The “chat” feature of Zoom will not be used during Commission meetings. Zoom meetings will be recorded.~~
6. Unless otherwise specified by the ~~Chair~~Mayor or Presiding Officer, all members of the public are allotted three minutes for each item. A timer is available so a speaker ~~may~~ monitor their remaining time. The ~~Chair~~Mayor or Presiding Officer may use the timer to more closely manage speaking times if there are many speakers present.
7. Should a group of people wish to address the body on the same item, a spokesperson may address the body and can use each group member’s three minutes, up to a total of a half hour. Members of the public allotting their time must be in attendance at the meeting.

8. If you are an applicant for a project, you may address a body for a total of 20 minutes as part of a formal presentation; you may also speak for a total of five minutes in closing remarks, should you wish to do so.

~~8.9.~~ Members of the public that cannot attend the Zoom meeting may submit comments in writing. Comments that are received by 12 noon on the day of the meeting will be forwarded to the Commission and read by staff into the record up to the three-minute limit.

~~9.10.~~ All remarks should be addressed to the body and not to any individual member of the body, staff, or any other member of the public.

~~10.11.~~ The ~~Chair~~~~Mayer~~ of Presiding Officer may direct a staff member to answer any questions from a speaker.

~~11.12.~~ ~~Commissioners~~~~Council members~~ shall not enter into debate or discussion with speakers during oral communications.

~~12.13.~~ The ~~Chair~~~~Mayer~~ or Presiding Officer may request, by unanimous consent of the ~~Commission~~~~Council~~, shortening speaking time to two minutes or ask speakers to limit themselves to new information and points of view not already covered by previous speakers should there be a large number of speakers. This may be necessary, not to limit public input, but to ensure that all speakers are able to participate in the full meeting, including the decision-making portion.

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~~Town Council—~~

~~Sharon Hanlon, Town Clerk~~ _____
~~shanlon@portolavalley.net~~

~~Laura Russell, Planning & Building Director~~
~~lrussell@portolavalley.net~~ _____

TOWN OF PORTOLA VALLEY PUBLIC MEETING DECORUM POLICY

Public comment at open meetings of the Town Council, Commissions and Committees are a cherished element of local government.

It is the intent of these rules to allow everyone to be heard without fear of being discouraged from participating.

Members of the public attending a Portola Valley public meeting shall observe the same rules of order and decorum applicable to the governing body. Any person wishing to address the Council is requested to announce his/her name and address (address disclosure is not a requirement). Any person while addressing a governing body who

- Makes slanderous, impertinent and profane remarks
- Interrupts another speaker
- Whistles, yells, disturbs or displays disruptive behavior (including applause) that impedes the orderly conduct of meeting

shall, at the discretion of the Presiding Officer or Chair, or a majority of the governing body, be barred from further audience during that meeting.

No matter how passionate one is about an issue, the goal is to conduct oneself in a way that will add to one's credibility and standing as a thoughtful member of the community. Following the chairperson's direction will ensure a positive experience for all who attend.



TOWN OF PORTOLA VALLEY

STAFF REPORT

TO: Planning Commission

FROM: Laura Russell, Director of Planning and Building

DATE: October 14, 2020

RE: Annual Report on Cannabis Land Uses Ordinance

RECOMMENDATION

Staff recommends that the Planning Commission receive this annual report and associated documents, receive public comment, and provide any feedback to the Town Council on the status of the ordinance.

BACKGROUND

On March 28, 2018 the Town Council adopted Chapter 18.39 – Cannabis Land Uses into the Portola Valley Municipal Code (Attachment 1). The chapter allowed for commercial cannabis cultivation, which was a new land use to be allowed in Town. Section 3 of the ordinance requires an annual review as follows:

3. ANNUAL REVIEW. For five years following adoption of this Ordinance, the Planning Commission shall conduct an annual review of this Ordinance. This annual review shall include the number of applications received, the number of permits issued, the number of complaints received and an assessment of whether modifications to the ordinance are required. Following the first annual review, in the Council's reasonable discretion, the Council may direct the Planning Commission to extend the time periods for the review or to eliminate such review altogether.

On May 15, 2019 the Planning Commission received the first annual review from staff. Given the general lack of interest by the public in pursuing a commercial cannabis permit, staff recommended that no amendment to the ordinance be made. The Planning Commission agreed that no changes to the ordinance were warranted at that time. The Commission asked that the second annual report include both the Zussmans' comment letter and a summary of other cannabis ordinances in local jurisdictions, so as to track the Town's position relative to the region.

This staff report represents the second annual review of the Cannabis Land Uses ordinance since its adoption.

DISCUSSION

The Annual Review section of the ordinance requires an annual report on permit-related numbers for the previous year. The following numbers pertain to the time period between the last annual review and October 1, 2020:

Applications received: 0
Permits Issued: 0
Complaints Received: 1

The Annual Review section also states that it shall include “an assessment of whether modifications to the ordinance are required.” There was some discussion by the Planning Commission during its preliminary review of the ordinance on whether the requirements for a commercial cannabis permit were too onerous and would discourage applicants. As a result, the Commission added the above provision requiring an annual review for five years. At its final review of the ordinance, the Commission discussed a comment letter from John & Patti Zussman, which outlined requested modifications to make the ordinance more lenient. Although the Commission did not adopt any of these amendments, it did request that the comment letter be included in the first annual review of the ordinance (Attachment 2).

In the two years since the ordinance’s adoption, staff has not received any public input regarding the regulations. Over the last year, there have been a handful of inquiries from cannabis companies requesting information on the Town’s regulations, but no applications have been received. As was reported last year, no members of the public have made a serious inquiry into what would be required to apply for a commercial cannabis permit.

The Town recently received one complaint from a resident regarding a potential cannabis warehouse/delivery service in Portola Valley. Staff is currently working on the complaint.

CONCLUSION

Staff recommends that the Planning Commission receive this second annual report on the Cannabis Land Use Ordinance and provide any feedback to the Town Council on the status of the ordinance.

ATTACHMENTS

1. Cannabis Land Uses Ordinance, PVMC 18.39
2. Comment Letter from John & Patti Zussman, received February 21, 2018
3. San Mateo County Cannabis Ordinances

ORDINANCE NO. 2018-422

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY ADDING CHAPTER 18.39 [CANNABIS LAND USES] TO TITLE 18 [ZONING] AND AMENDING SECTION 8.12.010 [DEFINITION OF NUISANCE] OF CHAPTER 8.12 [NUISANCE ABATEMENT] OF TITLE 8 [HEALTH & SAFETY] OF THE PORTOLA VALLEY MUNICIPAL CODE

WHEREAS, Proposition 64 or the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) took effect on November 9, 2016 and made it legal for persons 21 years of age or older to smoke or ingest marijuana or marijuana products; possess, process, transport, purchase, obtain or give away to persons of 21 years of age or older 28.5 grams of marijuana or eight grams of concentrated marijuana; and possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use; and

WHEREAS, the AUMA allows local governments to impose reasonable regulations on indoor cultivation and to regulate or ban outdoor cultivation or other cannabis land uses; and

WHEREAS, Senate Bill 94 took effect on June 27, 2017 and blended together the non-medical marijuana regulations in the AUMA and the Medical Cannabis Regulation and Safety Act (“MCRSA”) to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, after a study session on December 6, 2018, the Planning Commission of the Town of Portola Valley (“Town”) formed a subcommittee consisting of Commissioner Targ and Commissioner Gould to help Town staff prepare an ordinance relative to the reasonable regulation and/or ban of cannabis land uses;

WHEREAS, on February 7 and 28, 2018, the Planning Commission held public hearings to review the draft ordinance regarding cannabis land uses at which all interested persons had the opportunity to appear and after considering the entire record of proceedings, including but not limited to, the staff report and all written and oral comments received, the Planning Commission voted to recommend that the Town Council approve the ordinance; and

WHEREAS, on March 28, 2018, the Town Council held a public hearing to review the proposed ordinance regarding cannabis land uses at which all interested persons had the opportunity to appear and after considering the entire record of proceedings, including but not limited to, the staff report and all written and oral comments received and the Planning Commission recommendation, the Town Council voted to approve the ordinance.

NOW, THEREFORE, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. ADDITION OF CODE. Chapter 18.39 [Cannabis Land Uses] is hereby added to Title 18 [Zoning] of the Portola Valley Municipal Code to read as follows:

Chapter 18.39 Cannabis Land Uses

18.39.010	Purpose
18.39.020	Definitions
18.39.030	Prohibited and Permitted Cannabis Activities
18.39.040	Specific Non-Commercial Cannabis Activities Allowed
18.39.050	Town Commercial Cannabis Activity Permit Required
18.39.060	Commercial Cannabis Activity Application Requirements
18.39.070	Review of Commercial Cannabis Activity Permits
18.39.080	Grounds for Denial of an Application
18.39.090	Appeal to Town Council
18.39.100	Permit Renewal
18.39.110	Permit Nontransferable
18.39.120	Fees
18.39.130	Taxes
18.39.140	Commercial Cannabis Development Criteria and Operating Requirements
18.39.150	Record Retention
18.39.160	Track and Trace Program
18.39.170	Revocation or Suspension of Permit
18.39.180	Enforcement and Penalties
18.39.190	Implementing Regulations

18.39.010 Purpose

Proposition 64 or the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) took effect on November 9, 2016 and made it legal for persons 21 years of age or older to smoke or ingest marijuana or marijuana products; possess, process, transport, purchase, obtain or give away to persons of 21 years of age or older 28.5 grams of marijuana or eight grams of concentrated marijuana; and possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use. Senate Bill 94 took effect on June 27, 2017 and blended together the non-medical marijuana regulations in the AUMA and the Medical Cannabis Regulation and Safety Act (“MCRSA”) to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). Pursuant to these laws, local agencies may impose reasonable regulations on indoor cultivation and regulate or ban outdoor cultivation or other cannabis land uses. The purpose of this Chapter is to implement reasonable regulations for cannabis land uses that protect the health, safety and welfare of the Town.

18.39.020 Definitions

For the purposes of this Chapter, the following words and phrases shall have the meanings set forth herein:

- A. "Applicant" means a Person who has applied for a Permit under this Chapter.
- B. "Application" means that form approved by the Town Planning and Building Director and provided by the Department in accordance with this Chapter for the purpose of seeking a Permit.
- C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Cannabis also means the separated resin, whether crude or purified, obtained from cannabis. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, Cannabis does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- D. "Cannabis Products" has the same meaning as in California Health and Safety Code Section 11018.1 as may be amended from time to time.
- E. "Commercial Cannabis Activity" includes the Cultivation, Manufacturing, Distribution, Processing, warehousing, storing, Testing, packaging, labeling, transportation, delivery, Retail Sale of Cannabis and Cannabis Products or Cannabis events as provided for in this Chapter or under State rule, law, or regulation.
- F. "Cultivation" means any activity involving the planting, growing, fertilizing, irrigating, harvesting, drying, curing, grading, trimming, and/or storing of Cannabis whether in or outdoors and the related sale of such cultivated Cannabis.
- G. "Customer" means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation or a natural person 14 years of age or older with parental/guardian permission.
- H. "Department" means the Town of Portola Valley Planning and Building Department.
- I. "Distribution" means the procurement, sale, and transport of Cannabis and Cannabis Products between Permittees.
- J. "Indoor Cultivation" means Cultivation indoors using exclusively artificial lighting.

K. "Manufacturing" means compounding, converting, producing, deriving, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, Cannabis or Cannabis Products.

L. "Mixed-Light Cultivation" means Cultivation using light deprivation and/or any combination of natural and supplemental artificial lighting. Greenhouses and similar structures or spaces of sufficient size to permit entry enclosed with a nonporous covering or light deprivation systems are included in this category. This category does not include structures constructed of porous cloth or other porous material(s).

M. "Outdoor Cultivation" means Cultivation using no artificial lighting conducted in the ground, in containers outdoors, or in structures constructed of porous material(s).

O. "Permit" or "Cannabis Permit" means a permit issued by the Town for Commercial Cannabis Activity permitted pursuant to this Chapter.

P. "Permittee" means any Applicant issued a Permit under this Chapter.

Q. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company (LLC), estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

R. "Premises" means the property specified in the Application that is owned by the Applicant/ Permittee where the Commercial Cannabis Activity will be or is conducted. The Application shall specify the area of land on the property and/or the structure or structures where Commercial Cannabis Activity will be or is conducted. The Premises shall be a contiguous area and shall only be occupied by one Permittee.

S. "Retail Sale" means any transaction whereby, for any consideration, Cannabis or Cannabis Products is sold to a Customer, and includes the delivery of Cannabis or Cannabis Products.

T. "Sensitive Receptor" means schools providing education to K-12 grades, day care centers, Youth Centers, public parks, including but not limited to the following: Windmill School (900 Portola Road); Creekside Learning Lab (884 B-1 Portola Road); Christ Church (815 Portola Road); Ormondale School (200 Shawnee Pass); Corte Madera School (4575 Alpine Road); Woodside Priory School (302 Portola Road); Ladera Church (3300 Alpine Road); Town Hall Campus (765 Portola Road); Rossotti Field (3919 Alpine Road); Ford Field (3399 Alpine Road); Alpine Hills Swim & Tennis Club (4139 Alpine Road); Triangle Park (Portola/Alpine Roads).

U. "State" means the State of California.

V. "State Permit" means a permit to conduct Commercial Cannabis Activity issued by the State.

W. "Testing" means the testing of Cannabis or Cannabis Products by an authorized laboratory, facility, entity, or Person.

X. "Youth Center" shall have the same meaning as defined by California Health and Safety Code Section 11353.1 and shall also include publicly owned facilities and properties that support activities for youth and children.

18.39.030 Prohibited and Permitted Commercial Cannabis Activities

A. Prohibited. Unless expressly authorized by this Chapter, no Commercial Cannabis Activities for either medical or personal purposes are allowed in the Town of Portola Valley. The intent of this Chapter is only to permit cultivation of up to 12 commercial cannabis plants on any single property in any residential zoning district. No Permit for Commercial Cannabis Activity shall be issued for any other purpose or in any other zoning district, including but not limited to land zoned O-A or C-C.

B. Permitted with State and Local Permit. Only the following Commercial Cannabis activity may occur in the Town of Portola Valley pursuant to valid State and Town Permits:

1. Commercial Cultivation of Cannabis. Commercial cultivation of up to a maximum of twelve cannabis plants may be conducted subject to a Cannabis Permit only on residentially zoned lands.

C. Permitted with State Permit. The following Commercial Cannabis activities may occur in the Town of Portola Valley pursuant to a valid State Permit:

1. Transportation of Cannabis on public roads as expressly authorized under California Business and Professions Code Section 26080(b).

2. Lawful delivery of Cannabis to a Customer on public roads; however, no physical location for such delivery service shall be permitted within the Town of Portola Valley.

18.39.040 Specific Non-Commercial Cannabis Activities Allowed

The following are exempt from the permitting requirements of this Chapter:

A. Personal Indoor Cultivation. A natural person 21 years of age or older who engages in Cannabis Cultivation, subject to the cultivation limit in subsection C below, exclusively for personal use inside a private residence or inside a permitted accessory structure to a private residence located upon the grounds of a private residence as authorized by California Health and Safety Code Section 11362.1.

B. Personal Outdoor Cultivation. A natural person 21 years of age or older who engages in Cannabis Cultivation, subject to the Cultivation limit subject to the cultivation limit in subsection C below, exclusively for personal use outside a private residence as

authorized by California Health and Safety Code Section 11362.1. Notwithstanding the foregoing, any personal outdoor Cultivation shall be in compliance with the following requirements:

1. Shall not be in ordinary public view from public rights of way, publicly owned or maintained trails and public parks;
2. Shall be at least 600 feet away from any Sensitive Receptor. The 600 feet shall be measured in a straight line from the closest property line of the Sensitive Receptor to the actual Cultivation site; and
3. The odor from Cultivation must not be detectible off the grounds of the private residence or from any place accessible to the public.

C. Cultivation Limit. For both personal indoor Cultivation and personal outdoor Cultivation, not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. No Cannabis may be grown within the minimum setback required for the zoning district.

18.39.050 Town Commercial Cannabis Activity Permit Required

A. Any Person who intends to engage in a permitted Commercial Cannabis Activity in the Town shall obtain a Cannabis Permit in accordance with this Chapter for each Premises in the Town where proposed Commercial Cannabis Activity is to occur. A Cannabis Permit from the Town is not valid and the Commercial Cannabis Activity may not commence unless and until the Applicant obtains a valid license from the State for the same Commercial Cannabis Activity permitted by the Town. An Applicant shall provide a copy of the State license to the Department prior to commencing Cultivation.

B. Any Cannabis Permit issued under this Chapter does not provide any protection or immunity for any Person from State or federal laws, or from prosecution pursuant to any applicable State or federal laws.

18.39.060 Commercial Cannabis Activity Application Requirements

A. Each Application shall be filed with the Town, under penalty of perjury on the form provided and in the manner required by the Department.

B. An Application shall not be deemed complete until all required Application fees have been paid, and all questions, comments and/or requests for information have been addressed to the satisfaction of the Planning and Building Director.

18.39.070 Review of Commercial Cannabis Activity Permits

A. Processing of Application. The Department will review the Application. The Department will provide a copy of the Application for review and comment to the San Mateo County Sheriff's Department and the Woodside Fire Protection District. The proposed Premises may be subject to an inspection by the Department, the Sheriff's Department and Fire District prior to the public hearing on the Application, which will not be set until the Department determines that the Application is complete. If the Department determines the Application is incomplete, the Department will provide notice to the

Applicant, who shall have 30 days to complete all deficiencies. If the Applicant fails to complete the deficiencies within the 30-day period, the Application shall be deemed abandoned. The Applicant may reapply at any time following an abandoned Application. The Department will not refund any fees for incomplete or abandoned Applications.

B. Commercial Cannabis Permit Required. A Cannabis Permit shall be required for Commercial Cannabis Cultivation. The application procedures for the Cannabis Permit shall be as provided for in Chapter 18.72 of this title. The Planning Commission may grant a Cannabis Permit if it makes the following findings:

1. The proposed activity complies with the findings set forth in 18.72.130 (Conditional Use Permit findings).

2. The proposed activity is no more objectionable than the conditionally permitted uses allowed in the underlying residential zone with respect to public safety, security, environmental impacts, level of noise, traffic, odors, glare and other impacts normally associated with other listed uses.

4. The proposed activity complies with all of the development criteria and operating requirements in Section 18.39.140.

5. The Applicant has an established account in a State-approved track and trace in accordance with Section 18.39.160.

6. The proposed activity complies with the requirements set forth in this Chapter and State law.

C. Duration of Permit. Each Permit shall be granted for a one-year period and shall expire one year after the date of its issuance. Nothing herein is intended to limit the number of times an Applicant may apply to renew the Cannabis Permit issued by the Town.

D. Permit Conditions. In addition to any conditions imposed by the Planning Commission, all Permits shall include statements conveying the following information, displayed prominently on the Permit itself:

1. A warning that Permittees, supervisors, employees, and any other Persons involved in Commercial Cannabis Activities may be subject to prosecution under State or federal laws; and

2. An acknowledgment that, by accepting the Permit and engaging in a Commercial Cannabis Activity, the Permittee has released the Town and its officers, insurers, sureties, agents, Town Council members, attorneys, employees, and representatives from and against any all liability, and will defend and indemnify them, for any monetary damages related to or arising from issuance of the Permit, authorizing Permittee to engage in an authorized Commercial Cannabis Activity, enforcement of requirements or conditions related to the Permit, and/or revocation of the Permit.

3. All Cannabis Permits shall be valid only while the Permittee is in possession of a valid State license for the same cannabis activity authorized by the Town issued Cannabis Permit.

18.39.080 Grounds for Denial of an Application

A. The Planning Commission shall deny an Application for a Commercial Cannabis Permit for any of the following reasons:

1. The Planning Commission is unable to make the findings in Section 18.39.070(B) above.

2. The Applicant made a knowingly false statement of a material fact in the Application or knowingly omitted a material fact from the Application;

3. The proposed Commercial Cannabis Activities do not fully comply with the requirements of this Chapter or any State law or regulation;

4. The Applicant failed to provide all information required in the Application and/or failed to allow a pre-inspection of the proposed Premises;

5. An Applicant is subject to prosecution or has been convicted or sanctioned for an offense or violation set forth under California Business & Professions Code Section 26057(b)(4), (b)(6);

6. An Applicant has been sanctioned by the State or any other licensing authority for unauthorized Commercial Cannabis Activities or has had a State Permit or any other Permit for Commercial Cannabis Activities suspended or revoked in the three (3) years immediately preceding the date the Application is filed; or

7. Any other valid reason in the Planning Commission's reasonable discretion.

B. Notice of the decision to deny an Application specifying the reason(s) for the denial shall be provided in writing to the Applicant. The Applicant may appeal denial of its Application to the Town Council as set forth below in Section 18.39.090. No new Application(s) for a Permit on Premises where an Application has been denied shall be accepted for a period of one (1) year from the date of denial.

18.39.090 Appeal to Town Council

Action of the Planning Commission in approving or disapproving the grant of a Cannabis Permit may be appealed to the Town Council in accordance with Sections 18.78.010 through 18.78.110 or the Town Council may elect to review the action of the Planning Commission in accordance with the provisions of Section 18.78.120.

18.39.100 Permit Renewal

A. To renew a Permit, a completed Permit renewal Application on a form approved by the Planning and Building Director and renewal fee shall be received by the Department no fewer than sixty (60) calendar days before the expiration of the Permit. The Permit renewal Application shall not be deemed complete until all renewal fees have been paid. Upon receipt of a complete Permit renewal Application, the Department shall notify all adjacent property owners of the submittal at least 30 days prior to the issuance of the renewal.

B. In the event the Permit is not renewed prior to the expiration date, it shall be deemed expired and the Permittee must cease all Commercial Cannabis Activity until such time that the Permittee is issued a new Permit in accordance with this Chapter. The Permittee will be subject to enforcement actions pursuant to Chapter 1.12, Code Compliance, for continuing operations after a Permit has expired without a renewal.

C. Permit renewal applications are subject to review and decision by the Planning and Building Director. The Planning and Building Direction, however, has discretion to elevate

any Permit renewal Application to the Planning Commission for review and decision. The Planning and Building Director shall deny any request for a Permit renewal for any of the following reasons:

1. The Permit renewal Application is filed fewer than sixty (60) calendar days before expiration of the Permit;
2. The Permittee does not fully comply with the requirements of this Chapter or any State rule, law, or regulation;
3. The Permittee has failed to provide all information required in the Permit renewal application and/or has failed to allow a requested inspection of the Premises;
4. The Permittee has any outstanding taxes, fees, or fines owed to the Department or to the Town;
5. The Permit is suspended or revoked at the time of the request for Permit renewal;
6. The Permittee is subject to prosecution or has been convicted or sanctioned for an offense or violation set forth under California Business & Professions Code Section 26057(b)(4), (b)(6);
7. The Permittee has been sanctioned by the State or any other licensing authority for unauthorized Commercial Cannabis Activities or has had a State Permit or any other Permit, permit, or authorization for Commercial Cannabis Activity suspended or revoked between the time the original Permit was issued and the filing of the request for Permit renewal; or
8. The Permittee no longer meets the residency requirements of this Chapter.

D. If a request for a Permit renewal is denied, a new Application may be filed pursuant to this Chapter. However, no new Application(s) for a Permit on Premises where an Application to renew a Permit has been denied shall be accepted for a period of six (6) months from the date of denial.

E. Notice of the decision to deny or approve a request for a Permit renewal specifying the reason(s) for the denial shall be provided in writing to the Permittee. The Permittee may appeal the denial of a request for a Permit renewal to the Planning Commission.

F. The Planning and Building Director shall provide an informational item to the Planning Commission regarding any and all Permit renewals prior to the effective date of the renewal. The informational report shall include, but not be limited to, any comments received on the Permittee's Commercial Cannabis Activities within the year prior to the renewal Application. The Planning Commission may request that a public hearing be conducted on any Permit renewal Application. The public hearing shall be conducted de novo pursuant to the criteria set forth in this section. The Planning Commission's decision shall be appealable to the Town Council. Any appeal to the Town Council shall be subject to a de novo public hearing pursuant to the criteria set forth in this section.

18.39.110 Permit Nontransferable

A. A Permit issued under this Chapter does not create any interest of value, is not transferable, and automatically terminates upon attempt to transfer ownership of the Permit. Any change in the Permittee's ownership, control or management requires a new

Application pursuant to Section 18.39.070. In the event a new Permit is not issued by the Town prior to transfer of ownership, the Permit shall be deemed revoked and any activities on the Premises for which the Permit was issued must cease all Commercial Cannabis Activity until such time that the new owner is issued a new Permit from the Department. The Permittee and all owners of the Premises will be subject to enforcement actions pursuant to Chapter 1.12, Code Compliance, for continuing operations after a Permit has expired without a renewal.

B. A Permit is issued to and covers only the Permittee with respect to the Premises identified on the Permit. The Permit does not run with the land.

18.39.120 Fees

The filing of an initial Application and/or an Application for renewal of a Permit shall be accompanied by payment of such fees as the Town Council may establish to recover the cost of administration and enforcement of this Chapter. Such fees are non-refundable. Applicants and Permittees are responsible for the costs of inspections, investigations, and any other activity required pursuant to this Chapter. All fees and costs specified by this Chapter shall be established by resolution of the Town Council and may be amended from time to time.

18.39.130 Taxes

All Permittees shall comply with any Town-imposed Commercial Cannabis Activity taxes that may be enacted.

18.39.140 Commercial Cannabis Development Criteria and Operating Requirements

A. A maximum of 12 plants may be grown on the Premises for commercial purposes.

B. Residency and Ownership Requirements. Permittee must have his or her primary domicile in the Town of Portola Valley and must own the Premises.

1. If the Premises is owned by one or more individuals, at least one of the individuals must satisfy the residency requirements of this section.

2. If the Premises is not owned by an individual, the residency requirement specified in this section shall be met by the Permittee's chief executive officer, a member of the Permittee's board of directors or a Person with an aggregate ownership interest of 20 percent or more in the Permittee or other individual associated with the Permittee as approved by the Planning and Building Director.

3. The residency and ownership requirements specified in this section shall be maintained during the term of the Permit.

C. Property Setbacks. Commercial Cannabis shall not be grown in the zoning setbacks for the Premises.

D. All Premises shall also be located a minimum of 600 feet from any Sensitive Receptor. The 600 foot distance shall be measured in a straight line from the closest property line

of the residentially designated or otherwise protected site to the closest property line of the parcel with the Cannabis Cultivation.

E. Surveillance and Security. Commercial Cannabis Activity shall comply with security requirements acceptable to the Department on an individual project basis. The security requirements may include provisions for perimeter fencing plan (compliant with Municipal Code Chapter 18.43, Fences), interior and exterior lighting plan, security camera layouts, security team plan, alarm system details, transportation, remote monitoring, electronic track and trace, fire suppression plan, and record keeping.

F. Ventilation. All Premises shall be equipped with odor control filtration and ventilation system(s) to control odors and mold to the reasonable satisfaction of the Planning and Building Director.

G. Inspections. Premises shall be subject to inspections by, without limitation, the Department, the Town of Portola Valley, County of San Mateo, the Woodside Fire Protection District, and any or agency, office or similar department thereof. Agents or employees of such agencies shall have unrestricted access to the Premises, including, without limitation, all rooms, buildings, structures, facilities, and limited access areas, for the purpose of conducting inspections. If a Permittee refuses or interferes with an inspection, the Permittee will be subject to enforcement efforts pursuant to Chapter 1.12, Code Enforcement and the Town may order the immediate cessation of all Commercial Cannabis Activities on the Premises.

H. Display of Permit. The current Permit, State Permit, and an emergency contact phone number shall be maintained on the Premises at all times and shall be immediately accessible upon request of any entity conducting an inspection.

I. No Consumption on Premises. Consumption of Commercial Cannabis shall not be allowed within 100 feet of the commercial Cultivation area. This provision is not intended to prohibit personal use by the owner or occupant of the Premises.

J. Parking Requirements. Adequate on-site parking and delivery drop off and pick up zones shall be provided. No off-site parking shall be used in conjunction with the Commercial Cannabis Activity.

K. Notification to Department. A Permittee shall provide the Department with notice in writing, either by mail or e-mail to the attention of the Planning and Building Director, within 24 hours of the following:

1. A criminal conviction rendered against the Permittee;
2. A civil penalty or judgment rendered against the Permittee;
3. Notice of revocation of a State Permit or other local authorization to conduct Commercial Cannabis Activities;
4. The Permittee becomes aware of, or has reason to suspect, a diversion, theft, loss, or any other criminal activity involving its Commercial Cannabis Activities.

L. Cultivation Types Allowed. The following State Permit types, as defined by California Business and Professions Code Section 26061, will be permitted in the Town, subject to issuance of a Commercial Cannabis Permit:

1. "Specialty Cottage Outdoor" is an outdoor Cultivation site with up to 12 mature plants.

2. "Specialty Cottage Indoor" is an indoor Cultivation site with up to 12 mature plants.

3. "Specialty Cottage Mixed-Light Tier 1 and 2" is a mixed-light Cultivation site with up to 12 mature plants.

M. Number of Permits. The Town may issue up to 5 new permits during the first year of this ordinance. During the second year following the effective date of this ordinance, and each year thereafter, the Town may issue up to five new permits provided that there shall be no more than 10 issued Permits in effect at any one time. There may not be more than one Permit issued per Premises.

N. Building Requirements. All structures used for Cultivation, including greenhouse or similar structures shall comply with all applicable State or local building and design review regulations, zoning, and land use requirements.

O. Fire Code Requirements. A Permittee shall prepare and implement a fire prevention plan, which shall include, at minimum, emergency vehicle access to the Premises vegetation management, and fire break maintenance around all structures. The plan for compliance with this Section shall be proposed at the Application stage and shall not be approved without the concurrence of the Woodside Fire Protection District Fire Marshall.

P. Lighting. All lighting visible from the exterior of the Cultivation area shall comply with the dark sky lighting requirements. Light shall not escape at a level that is visible from neighboring properties or the public right of way.

Q. Runoff and Storm water. Runoff containing sediment or other waste or byproducts, including, without limitation, fertilizers and pesticides, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands, and shall additionally comply with all applicable State and federal regulations. A plan for compliance with this Section shall be proposed at the Application stage and included as a condition of approval.

R. Wastewater Discharge. Permittees shall submit verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof. All domestic wastewater shall be disposed of in a permanent sanitary sewer or on-site wastewater treatment system (OWTS) with demonstrated adequate capacity. A plan for compliance with this Section shall be proposed at the Application stage. The plan must, at minimum, identify the amount of wastewater, excess irrigation, and domestic wastewater anticipated, as well as treatment and disposal facilities.

S. Pest Prevention. All Cannabis and Cannabis Products shall be kept commercially clean in respect to established pests of general distribution so that exposure to such pests is

under effective control. Permittees shall comply with all applicable State and federal pesticide laws and regulations, including, without limitation, those enforced by the State Department of Pesticide Regulation. A plan for compliance with this Section shall be proposed at the Application stage. The plan must, at minimum, include the product name and active ingredient(s) of all pesticides to be applied to Cannabis during any stage of plant growth and integrated pest management protocols, including chemical, biological, and cultural methods the Permittee anticipates using to control or prevent the introduction of pests on the Cultivation Site.

T. Energy Use. Electrical power, including, without limitation, for illumination, heating, cooling, and ventilation, shall be provided by 100% renewable energy source or on-site zero net energy renewable source. A plan for compliance with this Section shall be proposed at the Application stage.

U. Noise Limits. Noise generated at the Premises shall comply with the Town's Noise Control requirements.

V. Hazardous Materials. No hazardous materials shall be used in conjunction with the Cultivation of cannabis at the Premises.

W. Waste Management. All Cannabis waste must be properly stored and secured to prevent access by the public. All garbage and refuse on the Cultivation Site shall be accumulated or stored in nonabsorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. No garbage and refuse generated in conjunction with the Cultivation of cannabis shall be allowed to accumulate for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh (7th) day. All non-Cannabis waste, including, without limitation, refuse, garbage, green waste, and recyclables, must be disposed of in accordance with Town and State codes, laws and regulations. A plan for compliance with this Section shall be proposed at the Application stage. The plan must address the storing, handling, and disposing of all waste by-products of Cultivation and, at minimum, characterize the anticipated amount and types of waste generated, identify the designated holding area(s) for Cannabis waste, and describe the operational measures that are proposed to manage, track/identify, and dispose of Cannabis waste in compliance with County and State standards.

X. Water Usage. Permittees must identify a water supply source adequate to meet all Cultivation uses on a sustainable basis for the Premises, provide the Department with proposed conservation measures, demonstrate that Permittee is in compliance with all statutes, regulations, and requirements of the State Water Resources Control Board, Division of Water Rights, and allow the Department and/or other County departments access to the Premises to monitor water usage. Domestic water sources must be from a source permitted by the Town. A plan for compliance with this Section shall be proposed at the Application stage.

Y. Insurance Requirements: A Permittee shall maintain insurance in the amounts and of the types that are acceptable to the Town Manager or his or her designee. The Town of Portola Valley shall be named as additional insured on all city-required insurance policies.

Z. Indemnity: To the extent permitted by law, the Applicant shall indemnify, defend and hold harmless the Town, its Town Council, its officers, attorneys, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the activity subject of the Cannabis Permit, including (without limitation) reimbursing the Town for its actual attorneys' fees and costs incurred in defense of the litigation. The Town may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

18.39.150 Record Retention

A. A Permittee shall keep and maintain the following records for at least seven (7) years from the date of permit issuance by the Town:

1. Financial records including, without limitation, bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization, other State of California agencies, the Department, or other County departments;

2. Personnel records, including each employee's full name, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable;

3. Training records, including, without limitation, the content of the training provided and the names of the employees that received the training;

4. Contracts with other Permittees;

5. Limited-access area logs and copies of current versions of any applicable plans required under this Chapter, including, without limitation, security plan, waste disposal plan, water management plan, water conservation plan, access restriction procedures, record keeping policy, odor and ventilation measures, energy usage plan, fire prevention plan, parking plan, and pest management plan; and

6. State permits, and other local Permits or authorizations to conduct Commercial Cannabis Activity.

B. A Permittee shall provide all books and records for review by the Department or its designee upon request. Records shall be kept in a manner that allows the Department, or its designee, to review the records in either hard copy or electronic form, whichever the Department requests. A Permittee may contract with a third party to provide custodial or management services of the records; however, such a contract shall not relieve the Permittee of its responsibilities under this Chapter.

18.39.160 Track and Trace Program

A. A Permittee must have an established account in a State-approved track and trace system prior to engaging in any Commercial Cannabis Activities. A Permittee may use any track and trace program approved by State agencies and shall comply with all State laws, rules, and regulations relating to track and trace, including, without limitation,

system unique identifier (UID) requirements, user requirements, reporting requirements, and inventory requirements.

B. The Permittee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. Data entered into the track and trace system must be accurate. Inaccuracies, if not corrected, may result in enforcement action against the Permittee.

C. The Permittee shall designate at least one track and trace system administrator who shall complete initial training prior to accessing the system and participate in ongoing training as required by the Department, the State, and/or their respective agents/designees. The designated administrator must maintain an accurate and complete list of any other track and trace system administrators and users and update the list immediately when changes occur.

D. It is a violation of this Chapter for any Person to intentionally misrepresent or falsify information entered into the track and trace system. The Permittee shall monitor all notifications from the track and trace system and resolve all the issues included in the notification in the time frame specified in the notification. A Permittee shall not dismiss a notification from the track and trace system until the Permittee resolves the issues identified in the notification.

18.39.170 Revocation or Suspension of Permit

A. Any of the following shall be grounds for revocation or suspension of a Permit:

1. Failure to comply with the terms and conditions of the Permit.
2. Any act or omission that violates the requirements of this Chapter, the County Code, or State rule, law, or regulation.
3. Any act or omission that results in the denial, revocation, or suspension of the Permittee's State Permit.
4. The Permit was granted on the basis of false material information, written or oral, provided knowingly or negligently by the Permittee.
5. Conduct of Commercial Cannabis Activities in a manner that constitutes a nuisance, where the Permittee has failed to comply with reasonable conditions to abate the nuisance.
6. The Permittee no longer meets the residency requirements of this chapter.

B. Revocation or suspension proceedings shall be conducted in accordance with Chapter 1.12, Code Compliance.

18.39.180 Enforcement and Penalties

A. Any activity in violation of this Chapter is hereby deemed a per se nuisance.

B. As part of any code compliance efforts, any Permittee found to be in violation of this Chapter shall be assessed in addition to the cost of code compliance a penalty in the amount of three times (3x) the amount of the Permit fee.

C. The remedies in this Chapter are in addition to and do not supersede or limit any and all other remedies provided by law. The remedies provided in this Chapter are cumulative and not exclusive.

18.39.190 Implementing Regulations

The Planning Commission shall have the authority to adopt regulations implementing this Chapter.

2. AMENDMENT OF CODE. Subsection Q is hereby added to Section 8.12.010 [Definition of nuisance] of Chapter 8.12 [Nuisance Abatement] of Title 8 [Health & Safety] is amended to read as follows:

“Q. A Commercial Cannabis Activity emitting odors that are detectible off site.”

3. ANNUAL REVIEW. For five years following adoption of this Ordinance, the Planning Commission shall conduct an annual review of this Ordinance. This annual review shall include the number of applications received, the number of permits issued, the number of complaints received and an assessment of whether modifications to the ordinance are required. Following the first annual review, in the Council's reasonable discretion, the Council may direct the Planning Commission to extend the time periods for the review or to eliminate such review altogether.

4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The Town Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act (“CEQA”) because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly.

5. SEVERABILITY. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

6. EFFECTIVE DATE AND POSTING. This ordinance shall become effective 30 days after the date of its adoption and shall be posted within the Town in three public places.

INTRODUCED: March 28, 2018

PASSED: April 25, 2018

AYES: Councilmember Hughes, Derwin and Aalfs

NOES: Vice Mayor Wengert and Mayor Richards

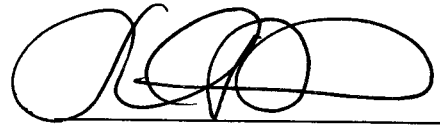
ABSTENTIONS: None

ABSENT: None

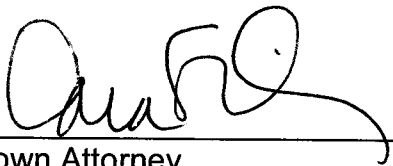
ATTEST None

APPROVED


Town Clerk


Mayor

APPROVED AS TO FORM


Town Attorney

Arly Cassidy

From: John Zussman <jzussman@alumni.stanford.edu>
Sent: Wednesday, February 21, 2018 10:33 AM
To: Arly Cassidy; Town Center
Cc: Jeremy Dennis; Taylor Craig; Jeff Aalfs; Zussman John; Zussman Patti
Subject: Comments on revised draft Portola Valley commercial cannabis ordinance

Follow Up Flag: Follow up
Flag Status: Completed

Dear Members of the Planning Commission:

Since we're unable to attend tonight's Planning Commission meeting, we wanted to update the comments that John made at the meeting of February 7.

We've lived in Portola Valley for 31 years, and are also among the 68% of your constituents of Portola Valley voters who voted for Prop 64 to make cannabis products available in town and to allow cannabis businesses to operate in the state. We commend the Town Council for allowing us to enter this brave new world of legal cannabis, and the subcommittee for recommending that we stick our toe in the water and allow limited commercial cultivation.

As John said at the previous meeting, this is one of those times when sticking our toe in is not enough. This is called a commercial cannabis ordinance; commercial means commerce, and commerce means business. But with all the licenses and regulations and taxes and fees, there is no way to operate a viable cannabis business with just 12 plants. The numbers just don't add up.

Now we understand that it's precarious for a small town without its own enforcement staff to be the pioneer. So we're happy that the ordinance calls for annual reviews over a 5-year period. And we urge you, at that first review next year, to evaluate whether the ordinance is sufficiently encouraging commercial cannabis activity, and to consider expanding it in two ways:

1. Promote small-scale cannabis cultivation by raising the limit of 12 plants. We can go into the water up to our knees, if you will, by sticking with the same kinds of cultivation licenses you are recommending, the Specialty Cottage category—the smallest type of state license available. Just align the Town ordinance with the state ordinance, which allows up to 25 plants for an outdoor license, 500 sq ft for an indoor license, or 2,500 sq ft for a greenhouse or mixed-light license.
2. Go further by allowing Microbusiness licenses. Small-scale cultivation may well be the least profitable (or most unprofitable) node in the cannabis ecosystem, because growers will soon end up competing with Big Agriculture cannabis operations. It will take vertical integration to compete, and the state has provided a Microbusiness license category to help them do that. This allows small-scale cannabis businesses to grow, manufacture, distribute, and sell their products—to function as “craft cannabis” producers, much like microbreweries, micro-wineries, and micro-distilleries have been able to hold their own against Anheuser Busch and Gallo.

Licensing microbusinesses is the way to achieve the will of the voters and foster small-scale, artisan cannabis businesses in Portola Valley while remaining true to our local small-town culture and values.

John & Patti Zussman
jzussman@post.harvard.edu
patti.zussman@gmail.com
5 Bear Paw
Portola Valley, CA 94028
650 851 4404 (phone)

PS. Please amend John's comments on page 3 of the February 7 draft minutes to say that small-scale cannabis producers will have to compete with "Big Ag" cannabis operations, not "big egg" operations!

San Mateo County Cannabis Ordinances by Jurisdiction

Jurisdiction	Ordinance	Year	Summary	Website
San Mateo County	Yes	2007	Limited mixed-light (greenhouse) commercial cannabis cultivation	https://planning.smcgov.org/commercial-cannabis-activity-license
Atherton	No	n/a	No commercial zoning in Atherton	n/a
Belmont	Yes	2017	No commercial or cultivating allowed	https://library.municode.com/ca/belmont/codes/code_of_ordinances?nodeId=CICO_CH15OFIS_ARTIXCA
Brisbane	Yes	2017	Testing, warehousing, manufacturing and retail delivery allowed; taxes levied	https://library.municode.com/ca/brisbane/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.33CABU https://library.municode.com/ca/brisbane/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.02DE_17.02.109CABU
Burlingame	Yes	2018	No commercial or cultivating allowed	http://qcode.us/codes/burlingame/view.php?topic=25-25_58-25_58_060&highlightWords=cannabis
Colma	No	n/a	n/a	n/a
Daly City	Yes	2018	Vareity of allowed commercial activiites - "Cannabis business" means any business activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of either medical or non-medical cannabis, including, but not limited to, cultivating, planting, harvesting, transporting, delivering, manufacturing, compounding, converting, processing, preparing, labeling, storing, packaging, wholesale, testing, dispensing, wholesaling and/or retail sales of cannabis, products including cannabis, and any ancillary products in the city, whether or not carried on for gain or profit and specifically excludes legal personal cultivation activities allowed under State law and city ordinances.	https://library.municode.com/ca/daly_city/codes/code_of_ordinances?nodeId=TIT5BUTALIRE_IIICABU
East Palo Alto	Yes	2018	Cultivation and commercial activities prohibited	https://library.municode.com/ca/east_palo_alto/codes/code_of_ordinance?s?nodeId=TIT9PUPEMOWE_CH9.32CAAC
Foster City	Yes	2018	Cultivation and commercial activities prohibited	https://www.codepublishing.com/CA/FosterCity/?FosterCity08/FosterCity0810.html#8.10.010
Half Moon Bay	Yes	2018	Greenhouse growing of immature plants; business tax	https://www.codepublishing.com/CA/HalfMoonBay/#!/HalfMoonBay03/HalfMoonBay03200.html
Hillsborough	Yes - medical/personal	2017	Cultivation and commercial activities prohibited	https://library.municode.com/ca/hillsborough/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.65MEADECARE

Menlo Park	Yes	2019	Cultivation and commercial activities prohibited	https://www.codepublishing.com/CA/MenloPark/#!/html/MenloPark07/MenloPark0731.html
Millbrae	Yes	2017	Cultivation and commercial activities prohibited; medical dispensaries prohibited	https://www.codepublishing.com/CA/Millbrae/#!/html/Millbrae05/Millbrae05120.html
Pacifica	Yes	2019	Retail, testing and manufacturer allowed; cannabis activity license required	https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART48CARE https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT4PUSA_CH16CAPUSALI_S4-16.03CAOPENPR
Portola Valley	Yes	2018	Limited additional residential growing allowed	https://library.municode.com/ca/portola_valley/codes/code_of_ordinances?nodeId=TIT18ZO_CH18.39CALAUS
Redwood City	Yes	2017	Some cultivation and delivery centers allowed, business permit required	https://library.municode.com/ca/redwood_city/codes/zoning?nodeId=ART59CACUCOCAAC https://library.municode.com/ca/redwood_city/codes/code_of_ordinances?nodeId=CH32TA_ARTVBULI_DIV7RECABU
San Bruno	Yes	2018	Cultivation and commercial activities prohibited	https://qcode.us/codes/sanbruno/view.php?topic=6-6_59&frames=off
San Carlos	Yes	2017	Testing , manufacturing and distribution allowed; business license	https://www.codepublishing.com/CA/SanCarlos/#!/html/SanCarlos08/SanCarlos0809.html
San Mateo	Yes	2017	Cultivation and commercial activities prohibited	https://sanmateo.ca.us.open.law/us/ca/cities/san-mateo/code/7.45
South San Francisco	Yes	2018	Manufacturing , distribution and delivery allowed; business tax/license	http://qcode.us/codes/southsanfrancisco/view.php?topic=20-20_410&frames=off
Woodside	Yes	2018	Cultivation and commercial activities prohibited	https://library.municode.com/ca/woodside/codes/municipal_code?nodeId=CD_ORD_TITIXGERE_CH99CARE

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PLANNING COMMISSION
Regular Evening Meeting, 765 Portola Road**FEBRUARY 5, 2019****CALL TO ORDER AND ROLL CALL**

Chair Goulden called the Planning Commission regular meeting to order at 7:00 p.m. Planning & Building Director Russell called the roll.

Present: Planning Commissioners: Kopf-Sill, Targ, and Taylor; Vice Chair Hasko; Chair Goulden
 Absent: None.
 Town Staff: Laura Russell, Planning & Building Director, Cara Silver, Town Attorney

ORAL COMMUNICATIONS

None

OLD BUSINESS**(1) Proposal to Amend a Conditional Use Permit to Allow Wine Tasting and Events at the Spring Ridge Winery, Spring Ridge LLC, 555 Portola Road, File # PLAN USE 4-2018**

Planning & Building Director Russell summarized the previous meetings regarding this proposal. The focus of tonight's meeting will be the preliminary review of the findings for approval. She noted that future meetings are anticipated to include discussion of analysis under the California Environmental Quality Act (CEQA). She said staff anticipates the analysis will include specific studies related to traffic, safety, and noise. She said that will be followed by a public hearing including all of the previous topics, bringing everything together into one formal public hearing for the Planning Commission's consideration.

Planning & Building Director Russell led the presentation of the background, project description, staff analysis, additional information, public comments, next steps, and conclusion as detailed the staff report. Staff recommended the Planning Commission consider the application, staff report and public comment, and provide preliminary feedback and direction on whether the proposed project is consistent with the Findings for Approval in the Municipal Code.

Chair Goulden invited questions from the Commission.

Commissioner Taylor asked who provided the Traffic and Safety Impacts document dated January 28. Planning & Building Director Russell said a resident provided it. A resident said he was available to answer any questions related to the document. Commissioner Taylor asked that the document be identified with a name and address when it goes into the official packet of information.

Vice Chair Hasko said there is different terminology used when talking about the weekend versus weekday wine tasting appointments – reservation system and appointment system. She asked if there is a difference. Planning & Building Director Russell said she thinks that is because it was not originally proposed to be reservations for the weekend, but was to be drop-in tasting, and the weekday was always going to be people calling in advance to make appointments, presumably for a group, which would occur more likely during the week. She said her understanding is there is no fundamental difference.

Ms. Neely stated that what Planning & Director Russell said was accurate, but said that there would be a more consistent flow on weekends whereas weekdays would be more sporadic. Vice Chair Hasko:

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On the 7th finding, if I'm counting correctly, you say the General Plan doesn't expressly require commercial policies to apply. Sometimes we look at the General Plan as more intent-based. How should we think about that Finding #7 as to the General Plan? I get the municipal code analysis, but I'm not convinced that if no one thought commercial uses would take place outside the commercial centers that it necessarily doesn't apply to arguable commercial use somewhere else. I don't know if there's a legal analysis or if you want to park that and get back in the future.

Planning & Building Director Russell said this is an important topic. She said the General Plan calls out different general land use classifications. She said almost all the policies related to the commercial uses are within the commercial district area, and it is very separated out with different headings and land use categories that correspond to the General Plan map. She said this is an important question for interpretation that will rest with the Planning Commission. She said the way staff has read it is that other areas of the General Plan provide guidance in similar areas, but there is no guidance here. She said staff looked for something similar and did not find it.

Vice Chair Hasko asked if the 150 per wine pick-up event on the six distribution days was people or members. Planning & Building Director Russell confirmed it is 150 people.

Commissioner Kopf-Sill said she was under the impression it had not been decided whether or not this project needed a CEQA analysis. Planning & Building Director Russell said it has always been known there would be some amount of CEQA analysis required, but whether it would be just an exemption without study or some amount of study or what kind of document might be prepared has been a question throughout the process. As the project now has evolved with enough focus and shape, it is now appropriate to undertake the CEQA analysis. She said staff now feels they have a better idea of what things need to be analyzed.

Commissioner Taylor said there are a lot of references to averages which doesn't seem consistent with the discussion on limits. He said if it is 12 cars an hour, it should not be called an average of 12 cars per hour, which could mean hundreds in one hour and none the rest of the time. Planning & Building Director Russell said the applicant has provided some information as a maximum and some information trying to use description. She said the project is probably at the point where the Planning Commission will be very interested in the hard maximums and how the maximums would be implemented.

Commissioner Targ asked if the discussion of the appropriate CEQA process as well as the analysis will take place at a later date. Planning & Building Director Russell said staff is having discussions with Town Attorney Silver now and working on some of those details. She said they will not bring to the Planning Commission a discussion about what level of analysis will be done, but will be asking the Commission for feedback on the analysis they undertake.

With no further questions for staff, Chair Goulden invited comment by the applicant.

Lucy Neely, applicant, thanked the Planning Commission and staff for their service to the Town. She said she is grateful to her neighbors and the members of the community for creating a very robust and productive conversation. She expressed gratitude to her parents that she lives here in Portola Valley. She also extended a sense of gratitude to this beautiful planet.

Ms. Neely reviewed how important it is to their business to have a tasting and sales space in order to continue to be a viable and successful winery. She reviewed the general environmental and community benefits of a successful and viable winery at Spring Ridge.

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Ms. Neely reviewed the notable modifications in this revision of the proposal, as detailed in the staff report.

Ms. Neely addressed some inaccuracies in a letter submitted to staff by Michael R. Lozeau, an attorney. She said they have not increased their total hours, but have decreased their total hours. She said the by-appointment is not 48 hours a week, but is 32 hours a week. She said their proposal clearly states that the wine club distribution days are only on weekends. Ms. Neely said the letter alleges there is no existing parking at the site. She said while there are no lines painted on the ground, there are 19 parking spaces. She said to the best of her knowledge, Mr. Lozeau has not visited the site. She said with regard to noise, their intention is that they will operate within the Portola Valley noise ordinance. She said the Town will conduct a noise study at the winery's expense that will provide clarifying information about appropriate noise levels and the maintenance of a tranquil neighborhood.

Ms. Neely explained that the wine club distribution days will be three weekends a year, where there will be larger gatherings of 150 visitors including staff. She said the idea is to hold these events back-to-back so as not to overwhelm the site on one day. She said although not specifically called out in this revision, there will be no weddings.

Ms. Neely shared the vehicle entry data obtained for their neighbor, the Windy Hill parking lot. She said the winery is estimating an average of 24 to 29 vehicles on a Saturday or Sunday and up to 60 on their busiest day, which is 15 percent of the vehicle traffic that occurs at the Windy Hill Open Space Preserve. She noted that the vehicle entry data for Windy Hill does not include the parking on Portola Road or the other parking lot on Alpine Road. She said Spring Ridge is also guaranteeing there will be no parking on Portola Road. She said these are basically two recreational uses – one being agricultural and one being for hiking. She said both are important ways to connect with the earth. She said there are a lot of trails in Portola Valley, but there is not a place where people can come and have a deep sense of connection with local agriculture which has been a very influential aspect in her life. She said their vision is to use agriculture and wine as a way to connect people to place, to tell the history of the place and how they are taking care of the place now.

Chair Goulden invited questions for the applicant.

Commissioner Taylor said the proposal is difficult to understand in terms of averages, and it would be helpful if the averages could be converted to time period maximums. Ms. Neely said they will bring hourly maximums. She said the reservation system will facilitate ensuring those maximums and averages.

Commissioner Kopf-Sill said she can see how the reservation system can regulate attendance. She asked about the wine pick-up days where 150 people will arrive, if perhaps everyone decided to come at 4:00. Ms. Neely said that is probably unlikely based on how people have historically picked up their wine at these events. She said it is like a bell curve and is more difficult than the reservation system.

Commissioner Kopf-Sill said the proposal assumes a certain number (2.5) of people per car. She asked how it would affect the parking total if there were only two people per car. Ms. Neely said there will be twice the amount of parking available than what is needed for 2.5 people per car. Chair Goulden said they would like to explore what happens with the maximums and how it flows.

Commissioner Kopf-Sill asked how the business will regulate that only residents from Portola Valley and its sphere of influence attend their events. She asked if attendees would be carded at the door. Ms. Neely said they would not likely be very strict, but would specify on the invitation it is for Portola Valley residents, and events will only be publicized through very local channels. Commissioner Targ asked if attendance will be by RSVP or first-come-first-served. Ms. Neely said it would be a reservation

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RSVP, the same way they do the wine club distribution days, so the winery has an understanding of how many people will be arriving, and so they can provide a cutoff for the maximum.

Commissioner Kopf-Sill asked for clarification regarding seated tasting and the necessity of making a distinction between seated or standing tastings. Ms. Neely said seated tastings are generally more formal while standing tastings can be more rambunctious. She said the intention is for a more restrained, more formal event. She said they are also trying to have prequalified customers attend through a reservation system who are willing to commit to a more serious tasting experience.

Vice Chair Hasko said the applicant has stated their goal is to have 300 to 400 wine club members. She asked how they would regulate the 150 people maximum per day on wine distribution days. Ms. Neely said their experience thus far is that only about half or less of the wine club members come to pick up their wine. She said the reservation software will be used for distribution and community days for control.

Vice Chair Hasko asked how the food would be handled, for example, at the Winemaker's Dinner. Ms. Neely said they have used caterers in the past, and it goes very smoothly.

Commissioner Kopf-Sill said the proposal states there will no amplified musicians. She asked if speakers or disc jockeys would be amplified. Ms. Neely said they will be deferring to the noise study for what is and is not permissible.

Commissioner Targ asked if wine distribution days will mainly consist of patrons picking up cases of wine or if they will also be entertained and schooled about the history of the wine. Ms. Neely said some people do just come in and pick up their wine and leave; however, they would prefer that wines being released and distributed have one-ounce pours and tastings because they want to create a real sense of connection and story. She said selling wine is about selling an experience. She said they want to create an experience where they share about how the wine is created in both the viticulture and the winemaking, and the different land stewardship efforts. She said there is more offered than just picking up a case of wine, but just picking up the wine is also okay.

Commissioner Targ said he is a member of the wine club, but he is not familiar with the distribution days, so he is part of the 50 percent that doesn't show up for that. He asked if that created logistical issues in the flow of people coming in during distribution days. Ms. Neely said it has not created any logistical issues so far and none are anticipated. She said the site is very spacious and can accommodate more people than they're asking for, and they are appreciative and aware of that buffer. She said they are also spreading it out over five or six hours, building in a sense of spaciousness to make sure things go smoothly. Commissioner Targ said he will be interested to know how that works in terms of timing and whether this is an adaptive management kind of issue that will be taken into consideration in the CEQA analysis or if there will be some other way to ensure that flow. Ms. Neely said one way she feels confident about this going smoothly is that their wine club membership will not suddenly grow to 300 members. She said the membership will slowly build so that the initial distribution days will start out much smaller than they are stating today and will build, so they will learn how to handle this well.

Chair Goulden asked about the hours for the Community Day. Ms. Neely said it would be the same as the distribution day, approximately 12:00 p.m. to 5:00 p.m., and she will add that detail to their next presentation.

In response to Chair Goulden's question, Ms. Neely said they are trying to procure a new address for the driveway so as not to create confusion. She said it has been a little complicated and will take some persistence. Planning & Building Director Russell said it is not a problem, and they just have to go

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through the technical steps and sort it out. Planning & Building Director Russell said they have also been in contact with the MROSD about the addressing in general.

Chair Goulden asked if the MidPen easement issue is directly related to this project. Planning & Building Director Russell said it does have some relationship to the project. She said if the project was approved it may require as a condition of approval that the easement issue needed to be resolved. Ms. Neely said MidPen has requested that they clarify the whole easement situation, and they will do their best to engage with them on that. From the audience, Mr. Neely expressed his opinion that the easement issue is not related to the current application. Commissioner Targ asked staff to come back to the Commission on the easement issue, perhaps including a graphic, because he is unclear how the easement is linked or not linked, the status, and whether or not it's germane. Chair Goulden said he was not clear if it was necessarily germane, but knew that it had come up. Commissioner Taylor said there were a number of comments from MidPen as a major neighbor.

With no further questions, Chair Goulden invited public comment.

Ellie Ferrari, 211 Willowbrook Drive. Ms. Ferrari agreed with the Commissioner who was concerned that this could be a slippery slope. From hobby winery to hay operation, building a barn to store implements for hay operation, to modest planting of grapes in the meadow, to increase in the viticulture operation, conversion along the way of haybarn to winery usage, and now the request to turn the hobby winery into a full-blown commercial enterprise on our Scenic Corridor – a Scenic Corridor designated by the Town Council with emphasis on tranquil pursuits such as views of the meadow preserve and the western hills as the trails are used or driven by in a car at the posted speed limit of 35 miles per hour. She said the General Plan describes the usage of this meadow as agriculture, and the haying operation encouraged the proliferation of wildlife. She said now the viticulture occupies most of the land and with it comes fencing so that the only wildlife seen is on MidPen's property next door. She said there was perhaps a hope that the family's past guardianship of this property would preserve Portola Valley's respect of open spaces and noninvasive uses of the lands. She said something has changed with this ethos, and now it seems that the only way to protect these hills is to have a commercial operation to help defray the costs involved and the Town is being asked to be complicit in bringing this about. She asked how the Town will oversee this commercial venture to ensure there is no abuse with usage and events and customers coming and going. She asked what would prevent the winery from bringing in grapes from other places as their wine becomes more popular and they are producing more cases. She said the slippery slope will then become more slippery, and the Town has no tractor to fix the slide as more cases mean more people will want to visit, and there will be pressure to increase the number of visitors. She said the elephant in the room is also the huge amount of traffic the Town suffers on weekends, with cars parked on both sides of the road due to traffic at MidPen's Windy Hill Preserve. She said a Town trail crosses the winery, which is well used by hikers, walkers, dogwalkers, cyclists, and equestrians. She said having ingress and egress of cars will make this more dangerous. She said these vehicles have to cross the multiuse dirt trail and also negotiate the road bike lane, which is filled with bikes and users of all descriptions in a never-ending parade, and more so when they have bike events. She said it is a precious thing to have a local hobby winery operation such as this, which, for all intents and purposes, comes across as a first-class operation. She said, however, when the Town is asked to upend the General Plan's requirements for this meadow open space to facilitate a commercial operation, it flies in the face of what Portola Valley is about and what the founders fought for when they incorporated this little community as a Town. She said she has faith that the Planning Commission will make the right decision in the interest of the Town and would remind them to please be careful of what they wish for because they will be putting the slippery slope on the backs of the residents to deal with in the future.

Wendy Hafkenschiel, 1100 Westridge Drive. Ms. Hafkenschiel said she is a 37-year resident of Portola Valley. She said she is stunned by what she just heard and has a completely different point of view.

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She said the Neelys have been wonderful stewards of the property, and their proposal continues along that line. She said the tasting room will be a wonderful asset for the locals in Portola Valley. She said there is concern that all of the parking be on-site. She said a lot of people will also find it a nice place to walk to, and the parking issue seems a little overblown. She said the setting is stunning. She said the Neely family has addressed the Town's concerns with their reservation system and their parking proposal. She said she is a Neely wine club member. She said the local residents will enjoy the winery as a place to meet with friends and to bring out-of-town guests and relatives, but sees it mostly as being a very nice local place for friends to meet for wine tasting. She said the setting is lovely with the iconic Windy Hill and the grapes grown right there in the meadow backed by the oak-studded hill. She said the proposal is well in keeping with what is loved about Portola Valley.

Betsy Morgenthaler, 500 Portola Road. Ms. Morgenthaler said the problem with the Neely proposal is simple – location, location, location. She said the Town has never before considered retail commerce of any kind on the southwest side of Portola Road, set within the low-lying meadows and orchards in this treasured and specifically protected woodshed. She said Portola Road is a dividing boundary with the commercial areas on the other far side. She said the majestic sweeping views that are so loved are here on this side, right behind the red schoolhouse. She said to change that would breach a social contract that has existed since the Town's inception and from which all of the residents have benefited. She said that is sufficient reason to find this request incompatible with Town values. Ms. Morgenthaler said, however, that tonight's lengthy report orients the conversation to a number of issues, four of which she wanted to supplement – comparison of Portola Valley with other municipal codes regulating wineries, whether or not commerce is here to serve Portola Valley residents, converting a secondary dirt access road to a major ingress/egress, and municipal code findings.

Ms. Morgenthaler said the winery municipal code comparison (Attachment 8 in the staff report) features six municipalities – four from Napa and Sonoma Valleys, one from Placer County, and one from Saratoga, far to the south and far more populous than Portola Valley. She said none seem as relevant as Woodside, the nearest neighbor, with an equivalent population and land use issues. She said Woodside's municipal code changed in June 1991 to restrict winery sales to a 2,000-gallon limit. She said sales and delivery were to be offsite unless at a specific invite-only event, with no allowance for broadcast invitation with open sign-up.

Ms. Morgenthaler said that, per the General Plan, Portola Valley's retail is here to serve primarily the needs of Portola Valley residents. She said this is stated as a major community goal (Point #11) in the very introduction of the General Plan, which states the commercial must meet the frequently recurring needs of the residents and specifically favors those that recur frequently to those that recur infrequently. She said she does not understand how staff can concur that a major community goal does not apply here. She said the words of the Town Manager, when speaking on the retail regulations on cannabis, also an agricultural product, are relevant: "On the point of drawing in out-of-towners, Town Manager Jeremy Dennis noted that retail outlets must demonstrate that customers are primarily Town residents. Other checkpoints the Planning Commission would apply are impacts on the rights of nearby property owners, impacts on the public welfare, and the importance of harmony with the purpose and intent of the Town's General Plan."

Ms. Morgenthaler said the lens with which this CUP has been evaluated is CUP #151. She referred the Planning Commission to #169. She said at the Planning Commission meeting in November 2013, in Exhibit B of CUP 169, Condition #3 states: "The existing gated driveway at the north end of the parcel's Portola Road frontage shall only be for secondary access, i.e., maintenance of the meadow area, and emergency access." She said the dirt road is now proposed to become a major access point. She said the review of CUP #169 should be incorporated sooner rather than later because it has at least as much bearing in this conversation as does CUP #151, the residential winery use.

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Ms. Morgenthaler referred to Municipal Code 18.72.130 covered by Planning & Building Director Russell earlier tonight, and detailed in the staff report. She said Findings 1 and 2 cannot be found because this lies within a dedicated open space meadowland, is on the wrong side of Portola Road, and is incompatible with land uses that are normally permitted. She said, with regard to Finding 3, the quantity and kind of traffic generated by this use is incompatible with this already congested and heavily used conduit to open space. She said on any given day, one can see bicyclists as commuter and loop riders, as well as hikers, arriving by the carloads. She said they use Portola Road for parking and cross the road with children. She said the family orientation and congestion is readily observable.

Chair Goulden asked Ms. Morgenthaler to send in her remaining comments because she had gone well past the allotted three minutes per speaker.

Joi Deaser, 35 Saddleback. Ms. Deaser said she has no affiliation with, nor has she ever visited, the winery. She said she is third generation Portola Valley. She was supportive of the proposal. She said agricultural innovation is what the Town was founded on. She said her father and grandfather, during the 1930s, were essentially bootleggers in Portola Valley right across the street from Town Center, leasing 40 acres of land. She said Windmill Preschool was their still. She said when prohibition lifted, they became legal in Portola Valley, but because of Town rules, they moved to Redwood City. She said she is very close friends with Tommy Fogarty of the Fogarty Winery. She said Mr. Fogarty is very charitable to Portola Valley and wished he could be here tonight, but she is there as his close family friend and delegate to say that he also supports the initiative. She said Mr. Fogarty wishes the Town would support more agricultural innovation and celebrate where we live. She said it's a beautiful place. She debates the south of Portola Road comments. She said Fogarty Winery is clearly south of Portola Road, and the town should not be provincialized that way. She said we are all one community, and the Town gives generously to people like the applicants and that is why she is there, to give support to the applicants for those causes. She said she wished more of the local people were supportive as a community.

Ed Holland, Chair of Bicycle, Pedestrian & Traffic Safety Committee. Mr. Holland said a number of residents have approached the Committee regarding traffic safety concerns associated with this proposal and change of use. He invited the Planning Commission to work closely with their Committee. He said there is a traffic study in the offing for the next phases, and he invited the residents and winery to join forces to look at the best way to ensure the studies and usage conditions are considered properly. He asked the Commission to reach out to the Committee, who has a lot of existing knowledge of the traffic issues in that area, particularly parking for the Spring Ridge Trail on Portola Road, and they are well-placed to help the Commission understand it.

Mary Paine, 290 Mapache. Ms. Paine said she understands there has been a lot of concern by citizens that this is a Pandora's Box and that if commercial enterprises are allowed to pop up in residential or open space areas, there will be no way to stop them anywhere else. She said that when the applicants were given permission to have the vineyard, it was made very clear at that time that they could not have wine tasting. She said the applicants decided to build the barn despite being told not to build a wine tasting room, the barn that will now be the wine tasting room. She said it is not the Town's concern whether or not the applicants make money on their winery. She said the concern is that the Town pay attention to the fact that a lot of the citizens do not want commercial projects in residential areas.

Tom Hafkenschiel, 1100 Westridge Drive. Mr. Hafkenschiel was supportive of the proposal. He said he founded a Facebook page called "Save Rural Portola Valley," which may make people think he would be on the other side of this issue. He said when he looks at what is happening in Portola Valley, he sees two large areas of open space that currently have consideration for development – the Stanford Wedge project, which would add 38 homes and probably 76+ cars every morning on Alpine Road on

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what is currently pristine open space, and this project, which would keep the existing open space being used for agriculture. He said Lucy is not very old so he would presume this property would be kept as it is now long into the future. He said he would not be supportive of any big development, and the proposed project is not a big development. He said the traffic impact will be miniscule. He said if the winery is not economically viable, it is not likely to remain in place. He said what will come afterwards is a lot of pressure to be building. He supported this proposal.

Leslie Kruth, 145 Grove Drive. Ms. Kruth said it is not the job of the Commission to evaluate the business plan of the winery. She said there are people who support the wine tasting room and people who don't, but the Commission's job is not to evaluate whether a wine tasting room will make the winery successful. She said the Neelys need to do whatever they need to do – sell the property, develop the winery, make a profit or not, and the community has to deal with whatever they do. She said the Neelys are the current stewards. She said so many are concerned that the property will change into a housing development, but it has changed since the moment they bought the property. She said it is like buying a place next to a school and then complaining about the kids making noise next door. She said the Neelys bought the property knowing a wine tasting room did not fit. She said they propose to be great stewards of the land, and she believes them, but they will continue to ask for CUP changes. She said whether the Neelys sell the property next week or 50 years from now, she hopes the Town has a much longer view of what the valley will look like. She said her home has been rented out while she's been overseas, but she is coming back because she loves her house so much. She said once the wine tasting is established, it will change and the proverbial camel will permanently have its nose under the tent. She added that the notice to the community is quite poor, and she only received notice because she is within 1,000 feet. She said this is not about resisting change, but is about changing what is wonderful about this community. She said once established, the vested rights will be legally or practically impossible to overcome politically in the future.

Meredith Manning, Senior Planner, Mid-Peninsula Regional Open Space District. She said the Windy Hill Open Space Preserve is adjacent to the subject property. She acknowledged on behalf of MidPen the concessions the applicants have made three times in response to comments. She said to date, the applicants have addressed three of the four major concerns of MidPen – the noise study and absence of amplified music, new separate address efforts, and committing to having staff available to help monitor parking during events to avoid impacts to users of the Preserve. She said MidPen appreciates these good faith efforts. She said she was glad to hear that the Town will be figuring out how the use of the driveway is related to the proposal because that issue is still unclear – whether or not there's an expansion of commercial use on the shared driveway and how that relates to the easement. She said MidPen has seen the documents and the deed, but have not seen a recorded deed, if one exists, which is a point of confusion. Ms. Manning said unless legal access can be determined, the continued use of the driveway would basically result in public tax dollars bearing the burden for private enterprise, which is not acceptable. She said they look forward to further communication on this issue.

Commissioner Taylor asked Ms. Manning if the driveway issue between MidPen and the Neelys is completely separate from the issue being discussed tonight, because there will be a completely different driveway for the winery. Ms. Manning said her understanding is that the tasting room at the new driveway and new proposed address would be a separate address; however, if there is any commercial use to access the grapes on the hillside, any commercial use of that driveway could place an undue burden on the easement, if it exists. She noted, however, they have not seen the recorded easement and have only seen the deed from 1980. Commissioner Taylor said they are currently growing grapes so if that is a problem, it's an existing problem that would be there even if there was no proposal for a tasting room. Ms. Manning said that is correct. She said, however, that the legal documents need to be clarified and noted that the discussions go back to the 1980s.

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Kristi Corley, 15 Golden Oak Drive. Ms. Corley said she has lived in Portola Valley for 25 years. Ms. Corley said she supports Saving Rural Portola Valley and supports this proposal. She has been attending the Portola Valley Vineyards jazz festival and yoga. She said she can walk there, and it is a thrill to be able to invite a few friends, buy a few tickets, and walk over there to listen to music. She said it provides a sense of community, and her family has been very involved with the community in with scouting, runs, picnics, etc. She said she is a member of Wente and a winery in Napa. She said the proposal will be an asset to the community, and she hopes it can be worked out.

Rusty Day, 178 Pinon Drive. Mr. Day said the previous speakers have been very eloquent about the slippery slope being looked at tonight. He said when the Neelys bought the property it had vineyards. In 2000, they sought and obtained CUP 151 that allowed a winery. In 2006 they sought to put an agricultural building in the meadow, which was an open space preserve, located directly above the San Andreas Fault in one of the most vulnerable and precious parts of town. He said there was a lot of second guessing and consternation about whether they really wanted an agricultural building or were actually expanding the winery. They assured the Town that this was an agricultural building that was necessary for haying operations to protect the meadow. They then received CUP 169. He said it was a different CUP because the Planning Commission wanted to keep the agricultural use of the haying operation separate from the winery. Mr. Day said this building is not under the winery's CUP. He said in 2009, the Neelys wanted to transform the meadow into a vineyard. Suspicions arose again that this property was just being turned into a winery, despite the Neely's insistence that was not the goal. Mr. Day said CUP 169 was amended to allow them to convert five acres of the meadow into a vineyard on the condition that the agricultural building would remain for agricultural use only, that the dirt road would not be improved, and that there would be no wine tasting or wine sales on the property. In 2013, there was a revision to the CUP that allowed more residential expansion, and the Planning Commission reiterated there would be no wine tasting or commercial sales on the property. Mr. Day said that history is important because it undercuts many of the arguments that have been floated. He said this is not an accessory use of the winery because the winery is not under this CUP. He said this agricultural building is under CUP 169 which was never a part of the winery and has always been an agricultural building for a haying operation. Mr. Day said wine tasting and wine sales are not an accessory use of a haybarn. He said this is a simple case for the Planning Commission because this is not a commercially zoned district and the building is a haybarn. He said the requested use is inconsistent with the General Plan, the Zoning Ordinance, and the CUPs that have been issued on this property for the last 20 years. Mr. Day said in 2006, the Neelys made a quid pro quo for a haybarn with the promise to use it to protect the meadow and to not use it as a wine tasting facility or to sell wine. He said they got their quid, and it is now time for them to deliver on their quo and not renege on it.

Mike Lozeau, with the Lozeau Drury law firm. Mr. Lozeau said he represents some of the residents including the Semans and others. Someone from the audience asked for the names of who retained him. He declined to provide that information. Mr. Lozeau said, with regard to the Finding #1, allowing crowds of people at events to drink wine in a residential neighborhood, concentrating and parking vehicles in a meadow preserve area, engaging in commercial activities outside of the Town's designated commercial areas, generating potentially noisy crowds and music adjacent to residential neighborhood are the reasons it is an improper location in relation to the community. He said, with regard to Finding #2, that everything must revolve around the barn located on the north side of the property. He said there is some inconsistency with the proposed parking and whether things are actually accessory uses or conditional uses that are allowed at all under the zoning law, the designation of the meadow preserve, and whether proposed parking is even sufficient to handle large events. He said they do not think it is adequate in size or shape to deal with those issues. He said any large event outside would not be able to comply with noise standards at the very close parcel. Mr. Lozeau said, with regard to Finding #4, that this project is very close to the property line and a large crowd will make a lot of noise. He said one trumpet is 90 decibels and a violin is 92 decibels. He said, with regarding to Finding #6, the proposal is inconsistent with the General Plan with regard to parking,

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the allowed uses of the R-E zoning, and is not in harmony with the general purposes and intent of the General Plan. He said there is disagreement with staff in terms of whether Finding #7 has to be made. Mr. Lozeau said the Land Use Element requires any commercial use be primarily focused on the local residents and the sphere of influence. He said uses which would attract a majority of patronage from outside the service area should more appropriately be located in larger and more centrally located commercial and office centers elsewhere on the Mid-Peninsula or the Bay Area. He said there is definitely a thrust in the Land Use Element that any commercial use be primarily about helping the needs of the local residents. Mr. Lozeau said Land Use Element 2138 says the development of new commercial floor area should only be permitted when it is demonstrated that the proposed additional space and uses are needed to serve the existing population. He said Land Use Element 2103 says uses of land should include homes, open spaces, and agriculture pursuits and such other office and commercial uses as are required to serve the frequent needs of local residents.

Fred Wydler, 1385 Westridge. Mr. Wydler is a close neighbor to the Neelys. He asked the Neelys if there would be large noisy bottling trucks coming to their property. Ms. Neely said they have a bottling truck that comes yearly, up to the top of the property, and nobody has ever complained about it.

Sandy Patterson, 126 Stonegate Road. Ms. Patterson said she is speaking for herself and her husband, Wil Patterson. Ms. Patterson thanked staff and the Commissioners for all the time they devote to the Town. She said she and her husband have lived in Portola Valley for 32 years after residing in Woodside and Atherton. She said just like everyone else, they love this town. She said they are both 79 years old, and the number of years they have left to reside in Portola Valley is questionable. She said they hope that the younger, newer residents can experience the same tranquil, rural experience they have. She said the Commissioners are architects of the future of Portola Valley. She and her husband oppose the introduction of retail and commercial activity into the meadow. She said Lucy gave them a very fine tour of the haybarn, which is a very handsome structure. She said at the December 4 meeting, Betsy Morgenthaler gave examples of successful small production wineries with no tasting rooms. She said these wineries adopted other forms of marketing, and she wishes the Neely winery would explore them. She said safety remains a major concern. She said living on Stonegate, they experience weekend parking on all sides of the road making it difficult to get out of the street. She said the mingling of pedestrians, cyclists, hikers, joggers, and equestrians with daily wine tasting is problematic. She said the Town is not liable for accidents that result from this mix if they conform to the usual California traffic codes. Ms. Patterson said the Town must be more proactive to protect their residents and visitors. She said that does not mean cutting down more trees or putting up more signs. She said there is commercial activity on both ends of the Portola Road Corridor, and she hopes it can stay that way.

Jerry Kohs, 115 Stonegate Road. Mr. Kohs said he left a list of 30 or 40 other venues in Portola Valley that are equally interesting and viable in terms of outdoor recreational events. He read aloud a letter written by him and his wife. "Dear Commissioners: We recognize that you are often put in the position of trying to weigh legitimate community-wide interests that are often in conflict with one another. A major case in point is the ongoing difficulty of mediating reasonable solutions to the issues of the need to build more housing and the need to protect fundamental aspects of Portola Valley's special environment. In the case of the Spring Ridge LLC application, however, what is being presented is an extreme imbalance of interest. Basically, the Commission is being asked to support the application of one single for-profit landowner at the expense of many other landowners and residents. Everything about this application, minus the promotional language, presents Spring Ridge with all the advantages of the project and none of the negative impacts. Indeed it's a NIMBY operation in reverse is how I view it, placing all of the retail and public business operations as far away from the Neelys' own house as possible. Even the proposed wine pick-up days will mean the uphill residents will be undisturbed, and only Portola Road will feel the impacts. The promotional language in the application claims that the community will benefit from a wine-related retail business. On the contrary, there is no evidence of any

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community-wide survey regarding the need for an additional fee-based wine tasting business, particularly such a business positioned in one of the town's most important open space and scenic locations. The promotional language also claims that a retail business in this specific location is essential to Neely Wine's success in the direct-to-consumer market. On the contrary, this may be one path to success, but certainly not the only one. Cited in previous meetings have been other boutique wineries operating successfully without the addition of wine tasting and event spaces. With this application, the property owner gains a new business directly on Portola Road. The owner gains marketing value by adding a vineyard experience to every potential sale and of course, it is expected that we ignore how much of the vineyard experience relies on the 1,300-acre public open space next door, the low-impact Jelich White Ranch, the Town's Spring Down property, the entire central corridor and Westridge properties. He said there is an extreme imbalance of interest in this proposal. In any process of mitigating, if you're going to move onto the mitigating stage, negative impact should be focused entirely on what the applicant can do to successfully operate a wine business without adding a wine-tasting event space." Mr. Kohs said the Neely numbers need to be looked at many times. He said in his computation, in terms of the community outreach days, with 150 per day, it will take 30 years for the people of Portola Valley to enjoy the Neely winery.

Laurie Barber, 51 Stonegate Road. Ms. Barber said she has serious concerns about the impact on the neighborhood. She said she's lived in Portola Valley long enough to remember before Windy Hill had the big organized parking lot that it has now. She said just the sheer comings and goings of so many additional people have really changed that whole stretch of Portola Road. She said she has a lot of concerns about the safety and maintaining the rural feel when so many more moving pieces are brought in.

Sylvia Thompson, 840 Westridge. Ms. Thompson thanked the Commission for their volunteer service. She read aloud the letter she and her husband wrote. "Dear Commissioners: We are writing for a second time to express our most emphatic opposition to the creation of a commercial wine tasting venue next to the Windy Hill Preserve. The Town agreed to allow a winery with restrictions so that we would collectively maintain the rural character of the town, while allowing use of a property for grape growing. We believe it is important that no exceptions are made to this permit. It would set a dangerous precedent that opens the door for others to apply for similar permits and represents a direct threat to the principles on which the town was founded. A wine tasting venue will bring more vehicle traffic to the Portola Road Scenic Corridor. Parking already overflows onto the street every weekend due to hikers. Additional parked cars could disrupt bike lanes and create road safety risks. While we are delighted that folks visit Portola Valley for the natural beauty found uniquely in our town, we absolutely oppose attracting visitors for activities easily accessed in more urban settings. A wine tasting room is an incremental step that could lead to events such as concerts and weddings. A commercial events venue is not in keeping with the rural character of Portola Valley. It is a precedent that we absolutely oppose. Please uphold our commitment to protecting the environment and quiet mood of the town. We respectfully ask you not to grant a permit for a tasting room or for any other events at the winery. Sincerely, Andrew and Sylvia Thompson." Ms. Thompson said they are very concerned about the precedence and also the fairness issues. She asked about all the other businesses such as Spring Down and Windmill School, which are severely restricted with regard to events. She said the Town should stick with the rules and arrangements that were originally granted.

Commissioner Taylor invited Ms. Morgenthaler to finish her comments. Ms. Morgenthaler said, with regard to Finding #4, that she had heard the abutting neighbors, MROSD, speak and read their letter, in which they raised a lot of issues that made it sound as if there would be significant adverse effects to both two- and four-legged creatures. She said Finding #5 cannot be made because the haybarn proposed to be a wine tasting and event space is straddled by two portions of the San Andreas fault line. She said Findings #6 and #7 cannot be made because the proposed use is not in harmony with the General Plan, nor is there reason to believe that a majority of its clients through the next years will

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be town residents. In conclusion, Ms. Morgenthaler said not one of the seven findings are true, but the Commission only needs to find that one is not true. She asked what the chances were that the Commissioners could pass a CUP today authorizing a brand-new building dedicated to retail wine sales, a tasting room, and regular party event space to be built from scratch on meadowland preserve. She said that question is clarifying. She said this could be walking backwards into an outcome that will be precedent setting. She asked the Commission to protect the precious common good and not allow commerce onto this side of Portola Road on minor technicalities.

With no other public comment, Chair Goulden closed the public hearing and brought the issue back to the Commission for discussion.

Chair Goulden said there are different ways to interpret the language within the code to the point where some find something fits within the code and others find it does not. Chair Goulden said the duty of the Commission is to balance those items. He said if it was clear cut in the code, there would be no need for Commissioners. He said the role of the Commission is to examine how the various pieces fit together and evaluate them as a whole.

The Commission discussed each finding.

1. The proposed use or facility is properly located in relation to the community as a whole and to land uses and transportation and services facilities in the vicinity.

Commissioner Kopf-Sill said she could make this finding.

Vice Chair Hasko said the complication is the proposed use of this facility, which comes down to a degree of usage. She said the General Plan clearly wants pedestrians and equestrians to use Portola Road, and they want to encourage ingress and egress. She said the General Plan also includes two different areas that are supposed to be more commercial. She said it is not clear to her that this is a proper area, particularly with some aspects of the usage. She said, for example, having events that might go into the evening raises safety issues. She said balancing safety in terms of ingress and egress is bad enough during the day and gets more difficult with nighttime usage. She said some aspects of this could fall within a manageable level of use, but because of the General Plan principles of safety, encouraging pedestrian and equestrian use and preserving tranquility, it is a matter of degree, and she is not sure she is seeing a balanced proposal in order to make this finding.

Commissioner Taylor said he struggles with this finding. He said this is clearly a commercial operation not in a commercial zone. He said the conflicting CUPs are quite confusing. He asked if staff could help sort out between the two CUPs. Chair Goulden and Commissioner Targ agreed. Commissioner Targ added that at this point, he was not sure that even mattered because the CUP itself is a conditional use associated with the underlying R-E zoning and not with a particular structure. He also asked for staff's and counsel's input on that point. Commissioner Taylor said there are restrictions in the existing CUPs, and this seems to allow something that would have nullified one of the CUPs.

Commissioner Targ they should be clear as to which of the CUPs is being amended. He suggested staff come back with clarification on that issue at the next meeting. Commissioner Targ said the issue with respect to safety is valid. He said it may be that the additional clearing that was proposed addresses that issue, but it is an issue that needs to be worked through. He said something that creates an equestrian, bike, or pedestrian conflict would be inappropriate at any location. He said he was unclear as to how that part is resolved and if that needs to be worked through the CEQA process or as a design element. He said that can be dealt with when the Commission discusses the project with greater specificity. He agreed with the recommendation made by the chair of the Bicycle, Pedestrian & Traffic Safety Committee, Ed Holland, that staff consult with them on this issue. He said the

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Commission should avail themselves of the other Committees as well. He said he saw this as more of an issue of mitigation in assuring safety and compatibility.

In response to Commissioner Taylor's question about the noise study, Planning & Building Director Russell said generally CEQA will analyze the worse case scenario.

Vice Chair Hasko asked if CEQA automatically looked at the impact on wildlife and noise given that's a special area as opposed to just looking at the neighbor next door. Planning & Building Director Russell said staff will look into that.

Chair Goulden said he could make this finding that wine tasting goes along with having a winery and a vineyard, with the provisos that some things need to be mitigated, which are covered by Finding #2.

- 2. The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as may be required by this title or in the opinion of the commission be needed to assure that the proposed use will be reasonably compatible with land uses normally permitted in the surrounding area and will insure the privacy and rural outlook of neighboring residences.**

Commissioner Kopf-Sill said she could make the finding. She said she would not be supportive if there were a lot more cars being out on Portola Road, but the applicant is attentive to that and the parking is adequate. She said her main concern about privacy and rural outlook of neighboring residences would be noise. She would not want neighbors to feel like they were next to a party dozens of nights a year. She said she will be interested in the noise study.

Vice Chair Hasko asked if the reference to "neighboring residences" means directly abutting neighbors. Planning & Building Director Russell said because the language here does not use "abutting," she has been interpreting it in the broader sense. Vice Chair Hasko she is not sure the parking estimates, especially for the large events, add up. She said she will need more detail on the traffic study and parking numbers regarding what is an acceptable estimate of the relationship between parking and attendees, how the applicant will manage it, how they will mitigate if people are stacked up on the road, and how they will mitigate temporary blockages. With regard to the neighboring residences, Vice Chair Hasko said she is concerned about light because it's a beautifully dark area that is valued in town. She said it appears that most if not all of the events will end by 6:00. She asked why the lighting would need to be installed or if that was only for the very few late-night events.

Commissioner Taylor said this feels like the proposal is taking away from the community preserve aspect. He said the zoning for the area is R-E, and he is still struggling with how commercial activity coexists in R-E. He said he is fairly comfortable with a vineyard, but going to a commercial business in R-E may be going too far.

Chair Goulden said that gets into the struggle of primary versus accessory uses.

Ms. Neely said it is specifically addressed in the municipal code relating to the R-E district that the conditional uses in R-E for winery includes wholesale and retail trade.

Commissioner Targ said it is not an issue of accessory use, but is already a permitted conditional use. Planning & Building Director Russell said this was the topic of a lot of the discussion at the last meeting, whether the proposal fit into the allowed conditional uses as described in the code. She said staff understands that issue was not closed, but there was some feeling from some of the Commissioners that the proposal fit within the allowed conditional uses. In response to Commissioner

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Targ's question, Planning & Building Director Russell confirmed that retail sale of wine is a conditional use that is permitted under R-E, as called out in the staff report. Commissioner Taylor asked if every winery in Portola Valley could have retail trade. Planning & Building Director Russell said they could if their proposal was approved by the Planning Commission.

Ms. Morgenthaler said it sounds like some of the Commission believe that this is a conditional use, and some believe it is an accessory use. She asked if it was important that the Commission come to an agreement on its designation. Chair Goulden said that will be sorted out as they move forward. He said they need to indicate how this is being approved for the record for future Commissions to document what they were thinking and how it moved forward.

Ms. Neely said, with regard to Commissioner Taylor's comments regarding all vineyards in Portola Valley having tasting rooms, that she was not aware of any other vineyards in the R-E district. She said the Residential district does not include that conditional use. Commissioner Taylor asked regarding the zoning for Hayfields. Commissioner Targ said it is complicated, but the underlying zoning is R-E.

Commissioner Targ said he could make this finding. He said there is no definite project at this point. He said there have been some very important suggestions, such as limitations on maximums and basically through-rates. He said there are issues of safety that have been raised that are interesting and valid, such as daylight hours versus nighttime hours. He said he is confident that in principle this project could meet the requirements of Finding #2.

Chair Goulden said things could be mitigated to make this finding. He said he would want the numbers predicated on not overfilling the parking and creating no overflow. He said the concerns referred to as part of the CEQA analysis, which would also apply to parking, traffic, and noise, are the big things that could potentially bother the neighbors. He said he would support somehow indicating that is the real concern, regardless of the specific numbers, so that if it turns out that 150 is too much noise and too much parking, those numbers can be adjusted. Commissioner Targ said he would not want to require parking to the maximum potential impact as it could result in an overparked situation which would degrade the natural environment. Chair Goulden said he was not suggesting making a bigger parking lot. He clarified that no matter what maximum number is stated, nothing goes off property, and if anything does go off property, then the issue has to be revisited to be mitigated.

3. The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Commissioner Kopf-Sill could make this finding. She said it is a minor increase in traffic, and there are many other sites along the road that have events. She said she has been by that property a lot and never noticed the driveway until this project came up. She was supportive of removing the berms and widening it so that bicyclists can see the driveway.

Vice Chair Hasko said Portola Road is one of the biggest roads in town, and she would defer to the CEQA analysis and the traffic study to see if the road itself is adequate. She said she would be surprised if that were found problematic. She could likely make this finding.

Commissioner Taylor said he would also defer to the CEQA analysis. He said for the three special release events ending at 10:00 in the evening could potentially be dumping 50 cars at once and he would be interested to see what CEQA says about that.

Commissioner Targ and Chair Goulden agreed with the other Commissioners.

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4. The proposed use will not adversely affect the abutting property or the permitted use thereof.

Commissioner Kopf-Sill said she could make this finding. She said she was glad the applicants addressed the concerns of the Windy Hill Open Space. She said the easement issue Ms. Manning mentioned is separate.

Vice Chair Hasko said the proposed use of wine tasting and wine club events could only affect the abutting properties with potential noise and traffic, particularly because some of the driveways are close by. She said issues with MROSD are being discussed and handled. Vice Chair Hasko said these properties operate together visually, and she wants to be sure to hear and address any concerns they may have.

Commissioner Taylor said while he would certainly want to hear from the current neighbors, those neighbors may not be the same neighbors that are there in five years, so the Commission also needs to focus on the practical effects of being that close. Vice Chair Hasko agreed and said she wants to hear from the current neighbors because their day-to-day experiences might impact the property level evaluation.

Commissioner Taylor said, with regard to the easement, as long as there is not a situation where the “overflow parking” ends up at 555 Portola because then the easement comes back into play. He said there should be no way that 555 Portola can be used for any of the wine tasting activity. He said if there is any possibility that 555 Portola can be impacted, that issue should be resolved.

Commissioner Targ and Chair Goulden agreed.

5. The site for the proposed use is demonstrated to be reasonably safe from or can be made reasonably safe from hazards of storm water runoff, soil erosion, earth movement, earthquake and other geologic hazards.

Commissioner Kopf-Sill said she is very attentive to earthquake safety and said this location is no worse than other properties along this area. She could make this finding.

Vice Chair Hasko said she could make this finding. She said, however, with the greater number of people coming and going, it occurs to her that the correlation between greater ingress and egress and fire hazards should be evaluated and what mitigating measures could be taken if there are any. Chair Goulden said he thought that the widening with both in and out available on the driveway would be important to the Fire Marshal.

Commissioner Taylor could support the finding. He said it would seem the safety concerns for a haybarn are different from a building with a 100 person occupancy. He said it would be interesting to understand if there is increased risk with more people there.

Commissioner Targ said fire safety is not mentioned in the finding and probably should be included. He said the question is whether it's reasonably safe – not more or less safe. Commissioner Targ said he would assume the parking and driveway would be appropriately engineered. Commissioner Targ could make this finding.

Chair Goulden said this property will be as safe as the Town Center and various other properties in this area, and he would not expect any issues coming up through the analysis. He could make this finding.

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6. The proposed use will be in harmony with the general purpose and intent of this title and the general plan.

Commissioner Kopf-Sill said in a residential zone, wineries are allowed with retail sales. The question is if a tasting room is part of retail sales. Commissioner Kopf-Sill said she believes it is. She said it is more vague with the events part of it, but she can make this finding easier with regard to the wine events versus other events.

Ms. Morgenthaler asked if she was speaking of this as an accessory use or a conditional use. Commissioner Kopf-Sill said she recalled there was a bifurcation, and she will refer to the notes. Chair Goulden asked that the discussion remain amongst the Commissioners at this point. Planning & Building Director Russell reminded that this is a preliminary review and, although the Chair has indicated there is an interest in making sure the body makes the determination regarding accessory or conditional, they do not have to make it tonight. Ms. Morgenthaler said the rationale is built on it being one or the other.

Vice Chair Hasko said this is a vague and challenging finding to make because it asks to look at the General Plan and harmony with the general purpose. She said there will be a lot of different ways people can look at that. She said it is particularly difficult because of the location of this property. She said the General Plan has an element that looks at the Portola Corridor with very specific language about certain areas along the corridor. She said it also has more visionary principles of tranquility, safety, being outside, encouraging people to use trails, etc. Vice Chair Hasko said that area of the trail is heavily used by the community in all kinds of different ways, so making it safe for ingress and egress also may negatively impact how much change would interfere with that experience, and the Trails Committee and others should weigh in regarding that. She said safety is an important goal, but mitigation would not mean taking out the trees, eliminating the berm, and clearing the underbrush to make sure everyone can see the 4-foot sign, which would potentially change the character. She said it is a tough balance to achieve. She said she has already mentioned a lot of her concerns, and there are mitigating measures for a lot of them. She said she will be closely scrutinizing noise and light pollution, especially in this area. She said it would be different in a different area that is not the subject of such a large portion of the General Plan. She said she hopes that provides some guidance on the need to balance. She said she does support the idea and the vision the Neelys have for the property. She said they have been good stewards of the land, and it is a potential community asset. She said the balance needs to be longer-term and not the current owners but the property itself, which is how she will be pressure testing some of the impacts. She said the Neelys have been great at articulating a vision everyone can understand, but the Town needs to be cautious about setting something up that may have a wide-ranging effect that is not limited to the exact opportunity before the Commission today.

Commissioner Taylor said he understands that R-E zoning allows a winery on a vineyard. He said, however, he still struggles with it fitting into the Scenic Corridor and the Preserve, even if it fits into the underlying zoning. He said he is still trying to better understand that piece of it. He agrees there is the larger sense the General Plan tries to capture, sort of the ethos of the town. He said he is trying to work through the feeling that a commercial entity in the Scenic Corridor outside the commercial areas may not be part of that ethos.

Commissioner Targ asked if this is a potential meadow preserve. Planning & Building Director Russell said the map indicates it as a proposed meadow preserve. Commissioner Targ said the difference is one of community orientation and the control of limitations. He agreed there are intentions within the General Plan. He said they need to recognize that what they're looking at for harmony does not necessarily mean that each policy, principle, and objective of the General Plan must be checked, but rather that there is an overall consistency with it. He said this goes to the issue of making sure, as Vice Chair Hasko pointed out, that there is not a blazing barn in the middle of an otherwise dark landscape.

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He said they want to make sure that they do not create hazards or conflicts with bicyclists at 10:00 a.m. on Saturday morning and that the other existing uses are properly respected. He said one of the things he looks to and values about the Town and General Plan is the speaking of the rural character of the town, which does not always mean pretty. He said the nature and history of the town is wrapped in its agricultural history and not a Disneyland form of rural. He said that one of the aspects he finds beautiful is the idea of having a location where people can sample literally, the fruit of the land. He said that speaks to a lot of elements present in the General Plan. He said it is possible to make this finding, but is all wrapped up in the final proposal, the application, and the attendant mitigations. He said the building and planning is for the long run, and it is essential to get the balance right.

Chair Goulden said tonight's public comment reminded him of the slippery slope and the need to be mindful of the long-term. He said looking at the top level of Portola Valley, trying to think about how to stay rural and not have massive development – which is coming. He said every lot will be developed in town, and it is quite likely the State will require increased densities. He said that's an option or they can have a vineyard and a winery, which feels a lot more rural. He said it has been pointed out that there are potentially some conflicts, and the proposal may not hit all six or seven of the key points, but at the top level it feels like something that will help the town in the long run.

7. When this title or the town general plan specifies that a proposed use shall serve primarily the town and its spheres of influence, the approving authority must find that it is reasonable to conclude, based on the evidence before it, that the proposed use will meet a need in the town and that a majority of the clientele of the proposed use will come from the town and its spheres of influence within the near future, normally no more than two years. In general, in making such finding, the approving authority shall, in addition to other information, explicitly take into consideration all similar uses in the town and its spheres of influence.

Commissioner Kopf-Sill said staff's interpretation was that this does not apply and asked if this finding needed to be discussed. Planning & Building Director Russell said the Commission should at least discuss whether or not the finding applies.

Commissioner Kopf-Sill said she had no strong opinion about whether or not it applies, and it can be argued either way.

Vice Chair Hasko said she would like more information regarding the intent or context within which this was adopted. She said it doesn't make sense to her that it would not apply. She said the Plan clearly designates two areas of commercial activity, and the general intent was probably looking to make sure that more than half the clientele is from Portola Valley. She said she would expect the Neelys would be thrilled if the whole town signed up to be a member of the wine club, and she is not sure there is any potential issue. She said there is a two-year period in this context that may or may not make sense.

Commissioner Taylor feels it does apply. He said they applied this to commercial, and this proposal feels commercial even if it is not in the commercial zone. He said he thinks it was left out because it was never envisioned that anyone would ever conduct a retail trade outside of the commercial zones. He said the other piece is that the less it has to do with town residents, the more impact it has on the town, which is something the Commission is trying to balance. For these reasons, Commissioner Taylor said this finding is critical.

Commissioner Targ said this may not be a legally supportable finding. In response to Commissioner Targ's question, Planning & Building Director Russell said she understands the spheres of influence as defined in the General Plan, a line slightly outside of the Town boundaries that picks up the Town's market area. Commissioner Targ said it would need to be looked at within the next two years to see that it meets the need and that the majority of the clientele comes from the Town and its sphere of

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influence. In response to Commissioner Targ's question, Ms. Neely said of the wine club members who live within the region of the Bay Area and would be likely to come to a pickup day, 52 percent are from Portola Valley and the sphere of influence. This does not include mail order clientele that will not likely ever come to pick up wine. Commissioner Kopf-Sill said that business already exists and what is on the table is just the wine tasting. She said the question is what percentage of the wine tasters are from Portola Valley and its sphere of influence.

Commissioner Targ asked Ms. Neely how things are trending. Ms. Neely said it is trending a little bit toward Portola Valley. She said they are now a little above 50%. Commissioner Targ said if this was an applicable element, they would probably need to have more members from Portola Valley. Commissioner Kopf-Sill suggested a possible condition that after a year or two, they must have at least 50% of the wine tasters being from Portola Valley and perhaps the reservation system opening earlier for Portola Valley residents.

Chair Goulden agrees that while he understands the intention, this finding may not be legally supportable. He said it was interesting that even when it does apply clearly in code, it's business and professional services, but not convenience goods and consumer services. He wondered where wine tasting fit in to that and said that should be researched.

An unidentified male from the audience asked when was the last time this was applied. He asked what was the reasoning for exclusion of Fogarty on multiple occasions.

Commissioner Taylor said the way this is set up is that the applicant gets to make their presentation, and then it is opened up to public comment. He said when it is brought back to the Commission, the discussion should stay with the Commission. He said they try to be generous and give people time. He said the Commissioners understand that it is frustrating but as more and more people start asking questions, Chair Goulden is then put in the position of closing it down. Commissioner Taylor said it is not that any individual person is being closed down, but the process is being lost. He said while they try not to be hard-nosed and be somewhat generous, if the general process is not followed, it just degenerates into chaos. He said he hoped the audience understands that. An unidentified female from the audience said that public comment was only limited to three minutes. Commissioner Taylor said they can submit letters of any length.

Chair Goulden brought the discussion back to the Commission.

Chair Goulden said it appears that they have already covered the CEQA discussion items. He asked staff if they required any additional information.

Planning & Building Director Russell asked if the Commission is looking for additional information to make a decision as to whether they think Finding #7 applies.

Commissioner Targ said he does not think it is necessary to determine whether this finding is legally enforceable.

Planning & Building Director Russell said she understands that Vice Chair Hasko wants information on the intent of the context of how it was adopted and some additional thought about the General Plan intent in general and how to reconcile that. Vice Chair Hasko said if there is a very clear legal treatment, she would like to know about it.

In response to Commissioner Kopf-Sill's question, Planning & Building Director Russell said that if a Planning Commissioner is making a decision about whether they think the finding applies, and they are

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drawing from different aspects of the code as part of their decision-making, then they learn from the code and how to apply it to other situations.

Chair Goulden said several of the Commissioners felt that it was probably intended to be applied. Therefore, when they look across all the segments of the code, and find an exception, they're saying that also probably still applies – that if they believe it applies in general, then this particular item will also apply and what that may mean when it comes to retail sales of wine.

Commissioner Taylor said he would like more information about the exception for Fogarty if there is enough context there. He said it would be interesting to understand what those exceptions were based on. Chair Goulden said that could also extend to things like Zots and restaurants. Planning & Building Director Russell said what they found on Fogarty is included in the staff report. She said she could provide the full minutes and staff reports, and said it is also summarized in this staff report. Commissioner Taylor said he just wanted to make sure the Commission has all the relevant information to consider this question and whether an exemption is appropriate.

Commissioner Targ said he would like evidence of a need and that within the next two years the majority of users of this facility will be from the community and sphere of influence.

Chair Goulden called for a five-minute break.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(2) Annual Election of Planning Commission Chair and Vice Chair

Commissioner Targ moved to nominate Judith Hasko to serve as Chair of the Planning Commission. Seconded by Commissioner Kopf-Sill; the motion carried 5-0.

Chair Goulden moved to nominate Craig Taylor to serve as Vice-Chair of the Planning Commission. Seconded by Commissioner Targ; the motion carried 5-0.

(3) Commission Reports

None.

(4) Staff Reports

Planning & Building Director Russell said there are a number of advance planning or initiatives from Council recently that are being carried forward. An additional Consultant Planner, Suzanne Avila, at a very senior level, has been brought in to help with some of those initiatives – expansion of the Affiliated Housing Program, the Fire Reach Codes, etc. Ms. Avila is the former Planning Director for Los Altos Hills.

Commissioner Kopf-Sill asked if there was a consultant doing a review of the General Plan. Planning & Building Director Russell said that work has been paused slightly as the other initiatives took priority.

(5) News Digest: Planning Issues of the Day

Staff shared an article of interest with the Commissioners – “SB 50: California Bill to Increase Housing Near Transit Falls Short”

(6) APPROVAL OF MINUTES: November 20, 2019, and December 4, 2019

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Planning Commission Meeting of November 20, 2019

Continued to the next meeting.

Planning Commission Meeting of December 4, 2019

Commissioner Goulden moved to approve the minutes of the December 4, 2019, meeting, as submitted. Seconded by Commissioner Kopf-Sill, the motion carried 4-0-1 with Chair Hasko abstaining.

Commissioner Targ and the Commission congratulated Jon Goulden on the fabulous job he has done this past year as Chair with a number of very challenging meetings.

ADJOURNMENT [10:23 p.m.]

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